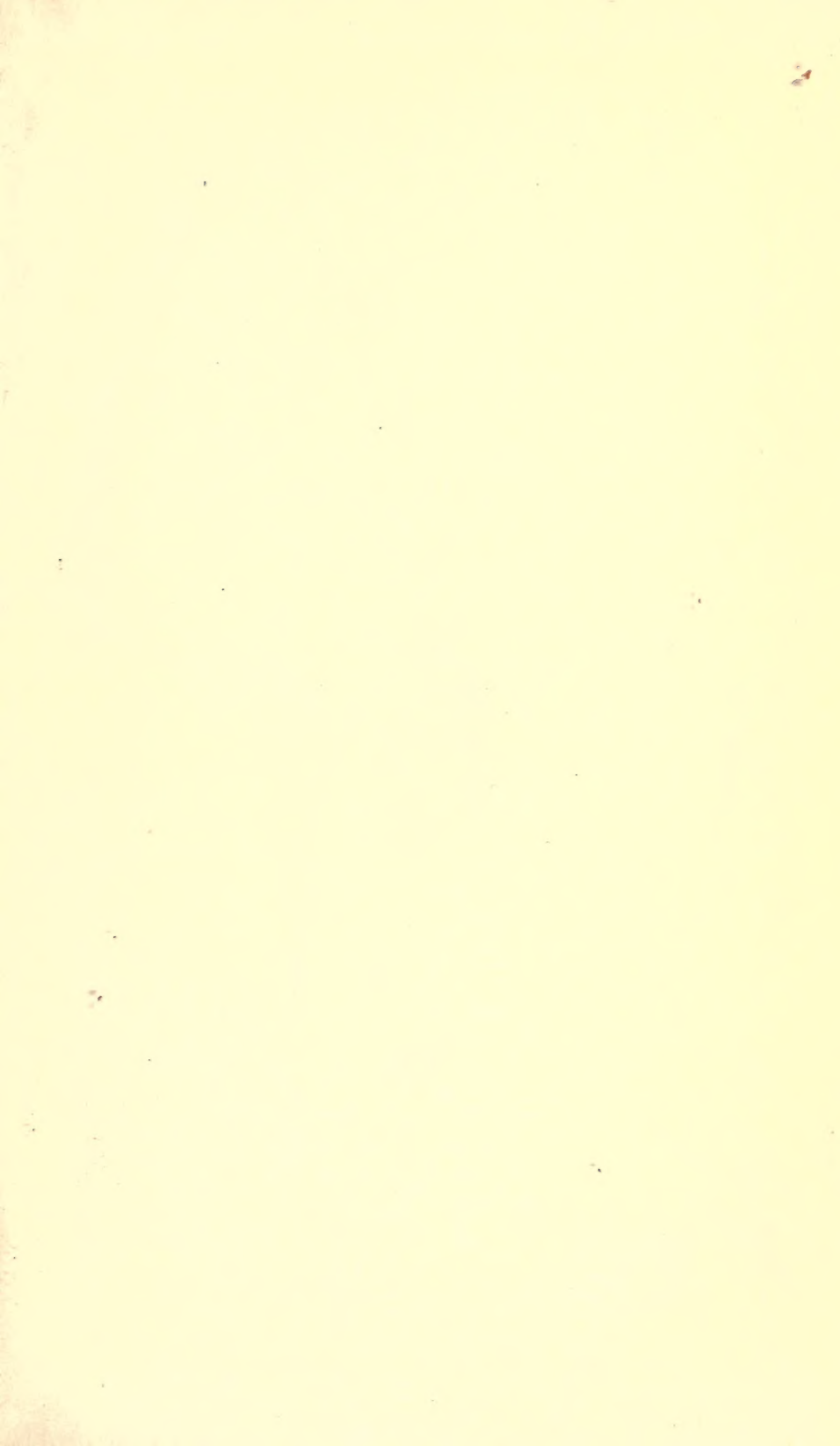


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Halifax Commission, 1877.

AWARD OF THE FISHERY COMMISSION.

DOCUMENTS AND PROCEEDINGS

OF THE

HALIFAX COMMISSION, 1877,

UNDER THE

TREATY OF WASHINGTON OF MAY 8, 1871.

IN THREE VOLUMES.

VOLUME II.



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APPENDIX G.

AFFIDAVITS PRODUCED IN SUPPORT OF THE CASE OF HER MAJESTY'S GOVERNMENT.

No. 1.

DOMINION OF CANADA,

Province of Prince Edward Island, Queens County, to wit:

I, ALEXANDER M. MCNEILL, of Cavendish, in Prince Edward Island, farmer and fisherman, a justice of the peace for Queens County, Prince Edward Island, make oath and say :

1. That I have been actively engaged in the fisheries off my farm at Cavendish since the year 1851, and have personally carried on the fishing.

2. I have had three boats engaged fishing every season, employing seven hands besides myself, and at the same time cultivating my farm.

3. The first few years my catch was not very good, owing greatly to the presence in such great numbers of the American fleet.

4. The numbers of this fleet throughout the gulf—I don't know but I have counted from my own shore over one hundred sail of American fishing-vessels, and that within three miles of the shore.

5. I attribute the poor boat-fishing of years gone by, during the Reciprocity Treaty, to the presence of the American fishing fleet.

6. Their custom was, to the number of from sixty to one hundred sail, to harbor in Malpeque, and then start out in the morning for the fishing grounds. If they saw a small boat taking mackerel, they would steer straight for them, going to windward and drift down, throwing bait, and either take the fish away or injure the boats: This was common for years, and very largely and materially prejudiced the boat-fishing.

7. During the past four or five years we have not been much annoyed with them. The British and Canadian cruisers had something to do with keeping them in order, and during the last two years only a small fleet has frequented the gulf.

8. The consequence has been that the catch by the boats has been very largely increased, and also the number of fishing-boats, which has more than doubled during the past four years. Many new boats are being built, and my opinion is that their number will increase every year.

9. During the past nine years my catch would average about one hundred barrels each season; but I do not make a business of fishing. In fact, I only prosecute it about two months in the season, combining fishing and farming.

10. I would think the number of fishing-boats at Rustico harbors would number about one hundred and fifty.

11. My twenty years' experience has proved to me that the best mackerel-fishing around our coasts is about a mile from the shore, in from seven to ten fathoms of water.

12. All the fish caught by the boats are taken within a mile of the coast, many of them within half a mile, during the months of July and

August; but during the months of September and October the boats take their catch further out, say two miles or two and a half. It is a very rare occasion that they go out three miles, or beyond it.

13. Of the total catch in the boats, over nine-tenths are caught well within the three-mile limit.

14. The American fishing-fleet have always fished on the same ground as the boats. They go in as close and closer to our coast than half a mile, commence throwing over bait, and drift off, taking fish with them off the shore, and when they lose the fish tack for the land again and renew operations. I can't say the proportion of their catch taken within the limit, because they sometimes make a good catch outside in deep-sea waters. The fleet have always fished within the three miles before the abolition of the Reciprocity Treaty and afterwards. They never gave up. The cruisers frightened them a little, but as soon as they were past, the fishing-vessels went right to work again and fished as before.

15. I prosecute the herring-fishing in the spring for bait, and get enough for that purpose, and to a small extent the cod-fishing, but my previous statements have entire reference to the mackerel fishery. The herring are all taken close to the shore.

ALEX. M. MCNEILL.

Sworn to at Charlottetown, in Queens County, Prince Edward Island, this 18th day of June, A. D. 1877, before me.

E. JAMES SALMER,

*Commissioner for taking Affidavits in the Supreme Court,
and Notary Public for Prince Edward Island.*

No. 2.

DOMINION OF CANADA,

Province of Prince Edward Island, Queens County, to wit:

I, HUGH JOHN MONTGOMERY, of New London, in Prince Edward Island, merchant, make oath and say:

1. That I am aged thirty-six, and have resided all my life, excepting the last four or five years, on the north shore of this island, and have prosecuted the fishing business both in boats and schooners, and profess to have a good knowledge of the business, having been mixed up in it all my life.

That during the past four or five years I have resided at Clifton, about four miles from the sea-shore, and have traded a good deal with the fishermen, and acquired, from actual experience, and from a prolonged and constant intercourse with the fishermen, a thorough knowledge of the different branches of fishing, as carried on along the shores and coasts of this island.

That one season I commanded a schooner of my own, and fished in her along the north side of this island, and up the Bay Chaleur. That during the last few years the increase in the boat-fishing around this island has been enormous, between fifty and sixty boats fishing out of the New London Harbor, and from one hundred and fifty to two hundred out of Rustico Harbor, while other harbors with which I am not so minutely acquainted, such as Malpeque, Cascumpec, Tignish, Nail Pond, Mimenegash, Egmont Bay, Murray Harbor, Souris, Tracadie, and Saint Peters, send out, every season, very large numbers of well-equipped fishing boats.

That during the past winter still larger preparations were made for the coming season, and I fully believe the number of boats fishing around the coasts of this island will be, this year, largely in excess of

previous years. That the increase in the number of fishing-boats does not seem in the slightest to lessen the number of fish; on the contrary, from the increased quantity of bait used, the effect is rather to keep the fish within the fishing limits where the boats fish.

That from my experience I would be prepared to swear that at least three-fourths of the total quantity of mackerel caught in the schooners are taken within the three-mile limit, while of the boats I believe almost the entire catch is taken within such limit.

That for the past two years the American fishing fleet in the gulf has been small, while for many years previously it would average six hundred sail.

That the presence of the fleet along the shores injured the boat-fishing because of the mode of fishing, which was, with the wind off shore, to approach the shore as closely as possible and commence fishing, keeping constantly throwing bait and drifting to sea, taking the mackerel off the shore with them and away from the boats.

That, as a general rule, my experience has led me to conclude that the American fishing-vessels usually secured two fares during the season in the gulf, and in some cases as many as three fares would be secured.

The vessels ranged, as a rule, from sixty to seventy tons, and a single fare would be in the neighborhood of six hundred or seven hundred barrels.

That in the spring of the year large quantities of herring are taken around our shores, which are used chiefly for mackerel bait.

That during the season I myself commanded my little schooner, whose tonnage amounted to twenty-seven tons, my catch was 190 barrels of mackerel only, but this I accounted for because I only fished two months out of the season, the vessel being engaged during the rest of the season in the carrying trade; and during the same season my catch of codfish was one hundred and seventy-five quintals of codfish, and three hundred and fifty barrels of herring.

HUGH J. MONTGOMERY.

Sworn to at Charlottetown, in Queens County, this 18th day of June, A. D. 1877, before me, the erasures opposite my initials being first made.

M. McLEOD,

*Commissioner for taking Affidavits in the Supreme Court
of P. E. Island.*

No. 3.

DOMINION OF CANADA,

Province of Prince Edward Island, Prince County, to wit:

I, JOHN D. WHITE, of Alberton, in Prince County, in Prince Edward Island, cooper and trader, make oath and say:

1. That I have now resided twenty-five years on Prince Edward Island, during twenty-three years of which I have been engaged in the fishing business.

2. Before coming to Prince Edward Island, namely, in the years forty-one and forty-two, I fished off the American coast. The result of the first year's catch was one hundred and sixty barrels, and of the second, seventy-three barrels. Both catches were all made nearly thirty miles from land. No mackerel were then taken by the American fleet off the coast of the United States excepting a long distance from land; none were taken within three miles of the coast.

3. In the year 1852 I came to Prince Edward Island, and in the year 1854 settled at Tignish and engaged in the business of coopering and

fishing. I kept a fishing-stage and employed a number of boats and men, and have continued steadily in the business ever since.

4. In 1860 I removed my business to Alberton, and I am now largely engaged in the business, employing one schooner, ten boats, and fifty-six men.

5. The increase in the boat-fishing has been large of late years. The numbers and the catch of the boats have more than trebled since 1854.

6. From Hardy's Channel to Kildare Cape, a distance of about thirty miles, there are seven fishing-stages, and in the harbor of Cascumpec alone there are thirty-nine large fishing-boats, the average cost of which is about three hundred dollars.

7. All the mackerel taken in and around this part of the coast, for many miles, are taken at a distance between one-quarter of a mile and two miles from the shore. A few may be taken outside of two miles from the shore, but none are taken outside of three miles.

8. The average catch of the boats for a period of twenty years has been from seventy to eighty barrels of mackerel each every season.

9. The American fleet have largely frequented this coast. I would say that from 1854 to 1874 the average number of the mackerel fleet of American vessels frequenting the Gulf of St. Lawrence ranged between four hundred and four hundred and fifty per season.

10. A large portion of this fleet frequent the shores around Cascumpec and take their catches there. They catch their fish close to the shore, about the same distance as the boats, that is between one-quarter and two miles from the shore. A very small proportion of the catch of the American fleet is taken outside of the three miles. The practice of the fleet is to run in close to the shore, throw out bait and drift off, some times taking the schools of fish with them.

11. The boats fishermen dislike the presence of the American fleet very much. It interferes sadly with the catch of the boats. The Americans dress their fish on the deck and throw the offal overboard, and this offal destroys the fishing-grounds.

12. In my opinion, nine-tenths of the fish taken by the American fishermen are taken within the three miles from shore, and I am quite sure if they were excluded from these limits they would have to abandon the fisheries in the gulf altogether. It would be useless and senseless for them to prosecute the business.

13. If American fishermen were excluded from our waters I would not care for the duty of two dollars per barrel levied in the United States. The demand for mackerel is well known, the quantity required is known, and we would have the business to a large extent in our own hands if the Americans were excluded from our shores. If they increased the duty the consumers would still, in my opinion, have to pay the increase.

14. The privilege of landing to get supplies and transship is a very valuable one. The mackerel season is very short, and this privilege is equal to an extra trip and is so looked upon by the Americans.

15. The new mode of fishing with purse-seines has a very bad effect on the fishery. It not only entirely disturbs and scares away the fish, but a very large number of small mackerel and other kinds of fish are taken and destroyed, thrown away dead, and the waters thus polluted.

JOHN D. WHITE.

Sworn to this third day of August, A. D. 1877, before me.

STANISLAUS F. PERY,

J. P. for Prince County, Prince Edward Island.

No. 4.

I, SYLVAN F. ARSINEAUX, of Tignish, in Prince County, Prince Edward Island, inspector of fish, make oath and say :

1. I have had charge of a fishing-stage for the last twenty years on this shore. I used, during that time, to be myself actually engaged in fishing, always in boats. I am now fish inspector for this county.

2. There are over two hundred and thirty boats engaged in the fisheries between Minnigah and Kildare; I know this from my own actual experience. The average catch of mackerel would be about forty-five barrels for each boat; for codfish and hake, the average for all the boats would be about forty quintals each. The average catch of herring for all boats would be about twenty barrels; the fishermen only try to get enough herring for mackerel bait and for home use.

3. The boats have trebled in number in the last ten years, and they are three times better boats; they are larger, better sailers, better rigged and fitted out. There is a large amount more money invested in the boat business than there was ten years ago. The business has enormously increased.

4. The boats carry, on an average, crews of four men each.

5. I would account for the increase in the number of boats, and the increased attention given to the business, by referring to the increase of population. There are greater numbers of fishermen springing up all the time; they are more enterprising, and they find the business pays. The boat-fishing also affords employment to numbers of men.

6. With some few exceptions, the boats get their fish close to the shore. The best fishing-ground is looked upon as inside of three miles of the shore.

7. For the last ten years the American fleet-fishing off the coast has averaged, I should say, about five hundred sail. When the cutters are not here, the Americans must catch three-quarters of their fish inshore. When the cutters were here they also caught more fish within three miles of the shore than outside, but not so much as when the cutters were away. They used to dodge the cutters and get inshore. There were not enough cutters to keep them off altogether. The Americans were frightened off a good deal by the cutters. If the Americans were prevented from fishing within three miles of the shore, it would not be worth their while to fit out for the gulf fishery. It would not pay them.

8. When the Americans come down they do a great deal of harm to the boats, as they throw a great deal of bait and draw the fish out. They come inshore, throw out bait, and draw the mackerel out after them. This leaves our boats without fish and destroys their chance of a catch. They have better bait than we have, and are enabled to do this damage.

9. Our fishermen look upon the coming of the Americans as an injury to the boat and island fishermen; the vessels draw away the fish. The fleet, in fact, puts an end to the good fishing, and are the cause of great loss to us.

10. The Americans, when they see boats getting fish, come up and "lee bow" them, thus depriving the boats of the fish. "Lee-bowing" is getting to windward of the tide or current and throwing out bait and drawing off the fish. The American schooners also frequently drift down upon our boats, when the latter have to get out of the way. The boats are often injured by the vessels drifting down on them.

11. It would certainly be an advantage to the Americans to be able

to transship their fish here. They would thus be able to fit out again for fishing and go back to the grounds without losing much time ; whereas, if they had to go home with their loads they would lose from three to four weeks right in the middle of the fishing season. It would be also a great advantage as enabling them to watch the fluctuations of the mackerel market, which is very variable.

12. The mackerel season here lasts from about the end of June till the middle of October. The Americans get here about the end of June. Some of them are off here now.

13. The mackerel I believe come down from the direction of the Magdalen Islands, or from the southward and eastward, and work northward and westward till some time in August, and then work back, and they strike this island both ways. The Americans follow the course of the fish.

S. F. ARSINEAUX.

Sworn to at Tignish, in Prince County, Prince Edward Island, this 28th day of June, A. D. 1877, before me.

JOSEPH MACGILVARY,
J. P. for Prince County, Prince Edward Island.

No. 5.

I ALEXANDER FRANCIS LARKIN, of Nail Pond, in Prince County, Prince Edward Island, fish-trader and fisherman, make oath and say :

1. That I have been engaged in fishing and in the fishing business practically for over twenty years, in both boats and vessels, and know the fishing-grounds right round this island, particularly the north end of this island. I have been on board of fishing schooners four years, in one of which I owned an interest, and the last year I was master of her.

2. The first two years that I was on board a schooner was in the Pearl, with Captain Champion one year and with Captain Fidele Gallant another year. Our catch of fish that year was small, as we were not fitted out for the business, and were only out a small part of the season. That was eighteen or nineteen years ago.

3. That I fished in the schooner Rechabite for about two years, but only for part of the season. I owned a third interest in her, and the second year I was master of her. She was thirty-seven tons burden. She was only out about five weeks that year, as we took freight both spring and fall. We caught in that time about three hundred quintals of codfish each year. All these fish were caught within three miles of the shore.

4. The American schooners often very seriously interfere with our cod-fishing schooners, as they often carry away the nets our schooners have out for catching bait. The greater part, I should say nine tenths, of our island-catch of codfish are caught within three miles of the shore. Another very serious trouble that the Americans cause our cod-fishing within three miles of the shore is, that when we put out our set-lines the Americans, when springing their vessels up to anchor for the purpose of fishing mackerel, often in getting in their gear interfere with our set-lines, and this trouble is increasing, as we are going more in for set-lines now. The set-lines are now taking the place of hand-lines, and the island coast will soon be a perfect network of set-lines. I myself have now about three thousand hooks out in set-lines.

5. That the Americans interfere very seriously with the cod-fishing and with our set-lines within three miles of the shore by their seining.

They throw a purse-seine of sometimes one hundred and fifty fathoms in length, and sometimes twenty in depth, and sweep the bottom, thus often causing great loss to our cod-fishing, besides disturbing our boats lying at anchor. This I look upon as a most serious trouble, and it is increasing.

6. That when mackerel strike in here and we have a biting school of them, I consider the coming of the Americans as the end of the fishing; they interfere with our boats and draw the school right off the coast, and break up the school. They do this by throwing bait and drifting away, drawing the mackerel after them. In a number of cases they drift down on the boats, and I have known a number of boats to be dismantled by them. Often the boats have to get under way to get clear of them.

7. The privilege of transshipment I consider is a very great one to the Americans; they are thereby enabled to come into our harbors, pack out and send home their fares by railway, without losing much time, and I believe they can refit here much cheaper than at home. This must save them at least three weeks in each trip, in the matter of going home, which would be equal to another trip in the course of the summer. They also get their fish home much quicker, and can take advantage of the fluctuations of the markets. I have known instances of Americans making as much as three and four trips a season into Charlottetown to transship.

8. Since having the Island Railway, they can pack out in Alberton with greater facility than in Charlottetown, and without leaving the fishing-ground.

9. The cleaning of large quantities of mackerel on our coast by the Americans, and throwing over the offal, injures our cod-fishing.

10. The American schooners often cause great injury and annoyance to our boats fishing mackerel, by drifting down upon them and taking away the mackerel, and compelling the boats to give way.

11. To my own knowledge a large fleet of American schooners fish around this island, from New London Head to North Cape, and thence to West Point, and generally within three miles of the shore. Masters and crews of American vessels look upon it as a very great privilege to be allowed to fish near shore, and if they were not allowed to do so, I do not believe many of them would fit out for the gulf fishing.

12. When the cutters were about, the American captains used to run the risk of capture and loss of vessel and outfit, in order to fish inshore, and some of them were taken. The cutters did protect our fishermen a good deal and our boats enjoyed greater security, but our coast was not sufficiently protected; there were not enough cutters. I believe that about ten schooners, as cutters, would protect the fisheries from Scattered, in Cape Breton, all the island coasts, and up the New Brunswick coast to Misko, and probably up the Bay Chaleur. Schooners of fifty or sixty tons would be the best cutters. In fact, that number would cover the whole mackerel fisheries for Cape Breton, Magdalen Islands, and New Brunswick, and would effectually keep the Americans out of the three-mile limit.

13. Large quantities of herring are now seined every year at Magdalen Islands by American fishermen, and they ship these herring away to Sweden, Norway, and southern markets.

14. The Americans derive great benefit from being able to go down to the coast of Newfoundland, to Bay Fortune, and up to Bay of Islands, where they catch large quantities of herring, which they freeze and send down to bait their George's fishing fleet, and also to their city markets.

15. After the Magdalen spring fishing is over the Americans often go up to Anticosti and fish and seine herring there.

16. The Americans, also, both at the Magdalens and at Cape Breton, land and seine for bait for their cod-fishing, and they even go into the rivers and catch gaspereaux for bait.

17. Taking our coast from Mimmigash to Nail Pond, in this county, I believe that the fishing outfit has increased five or six hundred per cent. in the last ten years; that is, in the number of boats and their cost. I would estimate the number of boats between Mimmigash and North Cape at from one hundred and fifty to two hundred; and from North Cape to Alberton I should estimate the increase during the last ten years at from three to four hundred per cent. I would reckon the number of boats in that distance at from one hundred and fifty to two hundred; there must be fully that many. I should say that the whole number of all these boats take crews of three men each on board of them, and that they furnish employment to one man for each boat on shore.

18. Our fishing at this end of the island is only in its infancy; our men are only getting skilled and trained to it.

19. The reasons for the increase in the number of boats are that men of capital and experience, seeing the fishing to be a fruitful source of trade, have invested capital, and have encouraged men to build and go into the boat-fishing.

20. I consider that after this we will have a distinct fishing class of people, that is when the lands are all taken up, which they are now. At present, and in the past, the men fished when they had time for farming. Now, we have men who depend entirely on the fishing, and these secure large quantities of fish, and their number is increasing fast. I consider that we are now at the beginning of a new departure in trade in this country owing to the fishing. In my experience, I depend upon men who depend entirely on the fishing to get fully three times as many fish as those who look partly to other means of support.

21. With regard to the value of our fisheries, I consider them very valuable. We have herring in early spring; immediately after, and during the herring-fishing, we have codfish. The herring-fishing lasts from about the 1st of May to the 5th of June. At times there are large quantities of herring on our coast, and they are about the same quality of fish as the Magdalen Island herring. They never yet have been fished as an article of export, but only as mackerel-bait and for home consumption. Very much larger quantities can be generally procured than are required for those purposes.

22. After the cod-fishing we have fish consisting of mackerel and ling, or hake, right through till late in the fall, till about the beginning of November. So far as I know, from actual experience, this part of this island is one of the choice spots for fishing in the Gulf of Saint Lawrence. Large numbers of the Nova Scotian shore fishermen come right round here to fish. We never have had a complete failure of fish, although in blustery years we catch less than in other years. The regular fishermen, even in the worst years, have always made fair wages.

23. I should put the average catch of mackerel per boat, for all boats engaged in fishing, at about fifty barrels, and for those engaged in cod-fishing, taking one year with another, for ten years past, about fifty quintals of codfish and hake. Until late years our boats and outfits have been of a very rude kind, not to be compared to that of the Nova Scotians or Americans, and that is one reason I think our fishery is only in its infancy.

24. I look upon our lobster-fishing here as of very great, in fact of

inestimable, value. We have an inexhaustible supply of them. This branch of the fishing might be pursued here with very great advantage. A great advantage in this fishery would be the abundance of fish offal which we have for bait, and which is now going to waste.

25. Hake sounds here are a very valuable article in our fishing. They are procured from the hake or ling. Each quintal of 280 pounds of ling will give on an average about $3\frac{1}{2}$ pounds of sounds. Within the last ten years the price of these has ranged all the way from 25 cents to \$1.50 a pound, making an average value of 75 cents, in gold, a pound. The value of the sounds is, on an average, worth from 75 to 100 per cent. more than the fish from which they are taken, and the sounds are, therefore, a very important consideration in fishing.

26. With improved winter-communication, large quantities of trout, smelt, and some bass might be exported. The value of these fisheries, if the means of trade were opened up, would be greatly enhanced, and would be well worth going into.

27. We have had one or two instances in this part of the island of men attempting the salmon, and they have proved that it may be made a success in fishing. Our people do not yet know the value of this fishery, which I believe will become very valuable.

28. Our men are now becoming more and more acquainted with the habits of the fish and with the general laws by which their movements are governed, and with their improved knowledge of the habits of the fish and increased facilities for taking them they are now much more able to get catches.

A. F. LARKIN.

Sworn to at Frog, or Skinner's Pond, in Prince County, Prince Edward Island, this 28th day of June, A. D. 1877, before me.

JOSEPH MACGILVRAY,

J. P. for Prince County.

No. 6.

I, JAMES CONROY, of Kildare, lot or township No. 3, in Prince Edward Island, farmer and fisherman, make oath and say:

1. I have been engaged in fishing and farming for over twelve years. I have fished all the time, except one summer, in boats.

2. The number of boats fishing off this part of the shore is increasing. The number has more than trebled in the last ten years. The boats are a great deal better now than they were formerly. They are in better shape every way—more suited to the purpose. There are \$10 spent in the business along this shore now to the \$1 spent ten years ago.

3. The boats around about here are small, as the people do not make a specialty of the business, but farm as well. The boats carry about three hands each.

4. All the mackerel caught along here are caught within three miles of the shore. The greater part are caught within a mile and a half and one mile of the shore. Near the shore is by far the best fishing ground. In the spring and fall the cod-fish are caught close to the shore. In the summer they are farther off. The mackerel is the principal and most valuable part of the fishery.

5. When an American fleet comes in they certainly do injury to the boat-fishing. The more vessels that come down, the more damage is done to the fishing. I have seen a fleet of some hundred Americans fishing off this shore within a couple of miles.

6. The year the cutters were about the Americans were pretty well kept off. It is a great inconvenience to them to be kept out of the shore fishing. With an off-shore wind they often throw over bait and draw the mackerel off. Certainly the shores around here are a benefit to the Americans.

7. The mackerel fishing begins about the first of July, and lasts till the end of September, any way.

8. As a general thing, people here with nets can get as many herring as they want; they are used for bait. Every boat uses on an average seven or eight barrels for the season, that is, the small boats along here, The large ones use much more.

JAMES CONROY.

Sworn to at Kildare, in Prince County, in Prince Edward Island, this 27th day of June, A. D. 1877, before me.

JOSEPH MACGILVRAY,

J. P. for Prince County, Prince Edward Island.

No. 7.

I, JAMES F. WHITE, of Alberton, in Prince County, in Prince Edward Island, merchant, make oath and say:

1. That I have been engaged in the fishing business for the last fifteen years as the owner of boats and vessels. I know the fishing grounds well, and I know where both boats and schooners fish, and the best fishing grounds. At the present time I have one schooner and ten boats, carrying about fifty men, engaged in fishing.

2. That about forty boats are fishing out of Cascumpec Harbor during the present year. These forty boats are manned by about one hundred and fifty men. The average yearly catch of each boat is about seventy-five barrels of mackerel, fifty quintals of codfish, and fifty quintals of hake. Herring are caught along the shore, and are used for bait. Each fishing stage, in an average year, uses about three hundred barrels of herring for bait.

3. The American fleet generally enters the bay during the month of June or the beginning of July. The mackerel are then generally on shore. The Americans are often afraid to follow the mackerel as close to the shore as the fish come, owing to the water being too shoal, close to the shore, for their vessels, and then they launch their boats and follow the mackerel inshore in them.

4. The mackerel generally move off shore about the first of October. The off-shore catch is very uncertain, owing to the weather in the fall being often bad.

5. During the summer months the Americans invariably fish within three miles of the shore, and do very much damage to our boat-fishing. They come in among our boats and draw off the mackerel. For the past ten years I think the average number of American vessels would be two hundred and fifty, and they average five hundred barrels each year. The year before last (1875) some vessels took eleven hundred barrels out of the bay in three trips. Last year the mackerel were scarce, and the highest catch about three hundred and fifty barrels. I never knew the mackerel so scarce in the bay as they were last year. This year (1877) the prospects are good, the mackerel plenty; the bay appears to be full of them.

6. When the cutters were about, watching the fishing grounds, the American fleet would go out of the harbor, send one of their number to

keep watch off Kildare Cape, while the balance of the fleet would fish inshore, and the watching-vessel would signal if there was any sign of the cutters. Whenever such signal was given, they would stop fishing and stand out to sea. When the cutter was gone they would come in again. I have seen this done myself.

7. Fully three-quarters of the schooners' catch is taken within three miles of the shore, and I may say the whole of the boats' catch.

8. The number of boats fishing here has trebled in the last three years. The reason of this increase is that other business is depressed, and fishermen from the United States, Newfoundland, New Brunswick, and Nova Scotia are coming here to settle, attracted by the good fishing, so that we are now able to get crews to man our boats, which formerly we were unable to do. Another reason is that the year 1875 was a very good year, and owing to the successful prosecution of the fishing that year people's attention was turned to the business, and they were incited to go into it.

9. The boat-fishers all look upon the arrival of the American fleet as the end of the good fishing. Too much bait is thrown from the vessels, and the boats have to give way to the vessels. The shore fishermen always look upon the arrival of the fleet to fish among them as a great loss and injury to them.

10. Generally there are more than enough herring caught along the shore for bait; this year, however, the herring fishery was a failure.

11. The Americans land here a good deal and transship their fish. This is a very great advantage for them. The advantage is that, when a vessel starts for a trip, she can only fit out for a short time, some five or six weeks, and having the right to transship, they are able to refit. They in this way save about a fortnight each trip, which amounts to an additional trip, for the summer. They can also generally buy their barrels and salt here cheaper than at home. They often come here and buy all their barrels, bringing none from home. I have supplied them myself. The right of transshipment saves them time.

12. The mackerel season is short, lasting, at the outside, from about the middle of June till the middle of October.

13. The mackerel, in spring, come down the Nova Scotian shore, and then strike up the bay to the Magdalen Islands, from there some shoals move toward the bend of this island, and others toward Bay Chaleur, Gaspé, and round there. The Americans are well acquainted with this habit of mackerel and follow them. They have very smart schooners, and follow the fish along the shore, taking their cue, to a great extent, from what they see our boats doing.

14. In average years, the shores of the Gulf of Saint Lawrence are lined with mackerel. It is their home. American skippers of long experience say that they never want to go further than three miles away from Cascumpec Harbor to catch mackerel.

15. It is a very great advantage for the American cod-fishermen to be allowed to come inshore to get bait, ice, and other requirements.

16. The mackerel are the principal part of our fishery, and when our men go out the mackerel are the principal object they have in view.

JAS. F. WHITE.

Sworn to at Cascumpec, in Prince County, in Prince Edward Island, this 26th day of June, A. D. 1877, before me.

JOSEPH MACGILVRAY,
J. P. for Prince County.

No. 8.

I, MEDDIE GALLANT, of Big Mimmigash, in Prince County, in Prince Edward Island, fisherman and fish-dealer, make oath and say :

1. That I have been engaged in fishing for the last twelve years. I have fished myself entirely from boats. I also owned a vessel called the "Break-of-day," for two years engaged in fishing. I am acquainted with the fishing grounds from this part of the island round Tignish, New London, Rustico, and nearly round to the east point of this island. I have also been in the herring fishing at the Magdalen Islands.

2. That there about two hundred and forty boats now engaged in fishing between Campbellton, on this shore, and the North Cape of this island—a distance of about twenty-two miles. From the North Cape to Cape Kildare there are at least one hundred and sixty boats engaged in fishing. From Kildare Cape to Cascumpec Harbor there are at least eighty boats engaged in fishing.

3. In the last five years the number of boats engaged in fishing in the above distances has at least doubled. At this run alone there has been a very great increase. Eight years ago there were only eight boats belonging to this run, now there are forty-five. The boats are twice as good in material, fishing outfit, in sailing, in equipment, in rigging, and in every way, as they were five years ago. There is a great deal more money invested in fishing now than there was. Nearly every one is now going into the business about here. The boats, large and small together, take crews of about three men each. That is besides the men employed at the stages about the fish, who are a considerable number.

4. The reasons for the increase in the number of boats and in the capital invested in the business are, that people find it pays. It has always, even in the worst years, paid us here. Another reason is that people are getting so numerous that they have to go into fishing as a means of support. They cannot get employment in other ways, and there is not enough land for them, and they are always able to make good wages. I never yet knew a year when a man would not make good wages if he stuck to the fishing. When I was fishing myself in a small boat I used to make from fifty to sixty dollars a month off my own line.

5. That there is a class of men springing up who are entirely devoted to fishing, and make their living by it and by nothing else. This class has only begun to come on within the last few years.

6. That in the summer of 1874, which was a good fishing year, my own boats, four in number, caught eleven hundred barrels of mackerel, or two hundred and seventy-five barrels each boat. One man in one of these boats caught twenty-six thousand three hundred mackerel on his own line, and the lowest number caught by any fisherman on board my boats was about seventeen thousand mackerel. Three of those boats carried three hands each, and the fourth boat carried four hands. In the year 1875 my boats, six in number, averaged eighty barrels each; they also got some ling and codfish. Last year, which was the worst year we ever had, we caught in my boats, seven in number, an average of seventy barrels of mackerel each boat. We do not do much in cod and hake fishing here. This year gives good signs of good mackerel fishing, as the mackerel are now much thicker than usual in the bay, and we have already caught some. Taking one year with another, for the last five years, the average catch of mackerel for each of my boats has been one hundred and twenty barrels. My average catch is, I

believe, the largest on this shore; the other boats would average about one hundred barrels each. This is on the south side of the North Cape.

7. The best mackerel fishing we ever have here is about two miles off the shore. Three-quarters, and in fact nearly the whole, of the mackerel are caught within three miles of the shore.

8. The American fishing-schooners generally come down here fishing about the 1st of July, and stop till October. I have seen three or four hundred sail of them out here fishing. Last year there were not quite so many. They fish right in among the boats. When the Americans see the boats getting fish they come right in among them, and the boats have to move away and give them room. They take the school of mackerel from the boats, and the boats have to move away somewhere else to try to raise the fish. I have often seen this done by the American schooners. I have seen boats come ashore with their spars knocked out by the Yankee schooners. The way they take the mackerel off is that they come in among the boats and throw their bait, which is generally better than ours, and then, instead of lying to anchor, they drift off, carrying the mackerel with them. They thus cause great loss and injury to our boat-fishing.

9. Before the American schooners come around we generally have good fishing, but when they come we find our fishing begin to slack off; it is not so good. They throw so much bait that small schools of mackerel are sunk and feed on the bottom, and we sometimes have bad fishing for a fortnight after that. The Americans clean their fish on board of their vessels and throw the offal overboard, and that destroys the fishing. When we used to gib the mackerel on the fishing ground and throw the gibbs and refuse over, we always found that the fish left the place, so that we had to give up cleaning out on the fishing ground, and now we bury the offal on shore, so that it will not get into the run and be carried out to the fishing grounds. I therefore believe that the American practice of throwing the offal overboard does great injury to the mackerel and other fisheries. It surfeits the fish and frightens them off.

10. When the cutters were about here they used to frighten the American schooners off a good deal, but the cutters that were here were too big for the purpose. Their smoke could be seen ten and fifteen miles off, and that gave the schooners plenty of time generally to escape. I have often seen the American schooners clearing out to sea on an alarm of the cutter's approach. I believe a few schooners of sixty or seventy tons each, well fitted out and well manned, would, as cutters, be quite sufficient to protect all the inshore fisheries. Ten would certainly be enough. The reason the schooners would make the best cutters is that they could not be readily distinguished from the American schooners, and some of them could always be on the ground.

11. The right of transshipment is of very great value to the Americans. It saves them at least three weeks each trip, and that right is the very best of the fishing season. That, in the season, would be fully equal to a trip saved to the schooners. They can come into our ports and discharge their catches, and take out another outfit, and lose little or no time, not more than two or three days. They can always get refitted here. They can get their fish into the market much quicker owing to this right. They are enabled to catch good markets. The mackerel-market is a very uncertain one, and it is a great advantage to be able to send the fish into it on short notice; and owing to the right of transshipment, mackerel can now be sent to Boston in four or five days, instead of taking three or four weeks. The fish are also better by

being sent in quick. I have found, by actual experience, that the longer mackerel are kept on board of the vessels the worse they get, and a week or ten days less on board makes a big difference. When left on board long the mackerel get knocked about and get to look bad; they also get warm and the pickle often sours on them.

12. The herring fishery around this island is very valuable, as to it the island fishermen owe their supply of bait, and they also use the herring for home consumption.

13. At the Magdalen I have seen the Americans seining herring and loading large vessels with them. They seine the herring close in to the shore, and get large quantities of them. In the spring of 1876, when I was down herring-fishing at the Magdalen Islands, there were over two hundred sail of American vessels fishing for herring, and they were all fishing right inshore. The Americans not only take the herring home from the Magdalen Islands, but also ship them away to the West Indies and to other markets. That herring fishery is a very valuable one.

14. The mackerel generally strike the Magdalen Islands first and then come down here. Experienced fishermen know how the mackerel come, and take advantage of that knowledge. The Americans know all about the habits of the mackerel and follow them. As soon as the mackerel get scarce at the Magdalen Islands the Americans come right down to this island after them.

MEDDIE GALLANT.

Sworn to at Big Minnigash, in Prince County, in Prince Edward Island, this 30th day of June, A. D. 1877, before me.

JOSEPH MACGILVRAY,

J. P. for Prince County, Prince Edward Island.

No. 9.

I, JAMES SKERRY, of Cascumpec, in Prince County, Prince Edward Island, fisherman, make oath and say :

1. That I have been in the fishing business, one way or another, for over ten years, most of the time in boats and three years in American schooners.

2. That the number of boats along this shore has increased in the past few years, and the boats are a great deal better. The boats, taking one with another, average about four hands each.

3. That I sailed in the fishing schooner *Lady Franklin*, of the State of Massachusetts, on a fishing trip in the Gulf of St. Lawrence, about eight years ago, and two years later in the American schooner *Gamecock* of Boston.

4. That we came into the bay in the *Lady Franklin* about the twentieth of July, and fished until sometime in November. She was about sixty-four tons burden, and carried sixteen hands. We caught about two hundred and seventy-five barrels of mackerel in her; that was a poor season.

5. That I went into the bay in the *Gamecock* about the 1st of August, and stopped in the bay till sometime in November. She was about 90 tons burden, and carried 18 or 19 hands. We landed one load of fish in Charlottetown out of her and then went into the bay again. The trip we landed in Charlottetown we had about 400 barrels of mackerel. The second trip we did very badly; only taking about 50 barrels.

6. There is certainly a great advantage to be able to transship. Another trip could very nearly be made while going home with a load of fish and refitting. By being able to transship here that time is saved,

and when the markets are up it is a great advantage to be able to transship and catch the market. The schooners can refit here just as cheaply as at home, and without losing much time.

7. The fishing grounds are best near the shore. The best catches the Americans ever make is in near the shore. The best fishing grounds are at the Magdalen Islands, up the Bay Chaleur, and at the north side of Prince Edward Island. In all these places they fish in near the shore. I should say that fully three-quarters of the mackerel caught on board the vessels in which I fished were caught close inshore. The way the Americans do is to come inshore, throw bait, and drift off, carrying the fish off with them. The Americans could never make good catches when kept from fishing within three miles of the shore. It would not be much worth their while to come into the bay at all, if they could not fish within three miles.

8. When the cutters were about they did a great deal of harm to the American fishing. When the cutters hove in sight the vessels, even if they were getting the mackerel, had to leave and make off the land. Half a dozen schooners, as cutters, would keep the American fishermen clear of the fishing places off this island.

9. The American schooners do a great deal of harm to the island fishermen. They come in and heave quantities of bait and drift off the shore, drawing the mackerel after them. They are also a great nuisance, as they come in and lee-bow the boats; that is, they run up to leeward of the boats, and throw bait and sail up under the lee-bow of the boats, drawing the fish clear away from the boats.

10. This year promises to be a good year for mackerel. I have seen more schools of mackerel this year already than I have seen any year during the last six years.

JAMES SKERRY.

Sworn to at Cascumpee, in Prince County, Prince Edward Island, this 30th day of June, A. D. 1877, before me.

JOSEPH MACGILVRAY,

J. P. for Prince County, Prince Edward Island.

No. 10.

I, JOHN CHAMPION, of Cascumpee, in Prince County, Prince Edward Island, fisherman, make oath and say:

1. That I have been engaged in fishing for ten years, and have a practical acquaintance with all its details. Part of my experience has been in boats, and four years in island schooners, of which I was master, and one summer in an American fishing schooner.

1. That there are fully fifty boats sailing out of Cascumpee Harbor engaged in fishing. During the last five years the number of boats along this shore engaged in fishing have fully doubled. The boats are very much better than they were then; they are now a splendid class of boats. I do not think they can be much better. They are better in sailing, better sea-boats, and better equipped in every way for fishing.

2. That the reason I would assign for the increase in the number of boats is that people find that the fishing business is a paying one.

3. The average crew of the boats all through, large and small, would be four men each, clear of the men employed about the fish ashore; there are a considerable number of men employed on shore in connection with the boats.

4. That the average catch of codfish per boat, out of this harbor, would be about one hundred quintals. They would average at least twenty-five barrels of herring a boat, but all the boats do not go in for herring fishing, or the average for each boat would be much larger; if all fished the average would be one hundred barrels, worth \$3 a barrel. The average catch of mackerel per boat would be about eighty barrels, some catch more and some less, worth \$8 a barrel.

5. The mackerel are nearly all caught inside of three miles of the shore, that is the best fishing for both codfish and mackerel. The half of the codfish are caught within three miles of the shore.

6. The sounds of the hake are an important item in fishing, there are about three pounds of sounds to the quintal of hake. Each boat lands on an average about one hundred and fifty pounds of sounds in a year. The sounds are worth from eighty cents up to a dollar and a quarter per pound. There is also about a gallon of oil, worth about sixty cents, to the quintal of hake, so that the sounds and oil are worth considerably more than the fish from which they are taken.

7. That the sea lobster-fishery is very valuable in this part, and is now being pretty extensively prosecuted. The best and nearly all the lobsters are caught out to sea, from half a mile to one mile from the shore. The lobster-fishery is increasing. There are now about five thousand lobsters a day caught here.

8. That I commanded the island schooner *Alberton* for three years, commencing in the year 1868. She fished each year, but only for about two months each season. She was twenty-eight tons burden, and carried a crew of ten hands. The first year she took about two hundred barrels of mackerel; the second year she did about the same. In fact, she averaged two hundred barrels of mackerel each year. She did not fish the whole season any year.

9. That I commanded the island schooner *Bay State* in the year 1873. She was also of twenty-eight tons burden, and carried ten hands. She did not fish quite two months. She took one hundred and seventy-five barrels of mackerel.

10. That in the year 1872 I fished for two months in the bay on board the American schooner *Flying Fish*, of seventy-five tons burden, carrying eighteen hands. She landed five hundred barrels of mackerel, only making the one trip.

11. The principal part of the schooner fishing is done within three miles of the shore. Some of the American vessels do all their fishing inshore. About three-quarters of the fishing done by the *Flying Fish* was done inshore.

12. That I do not think that it would be any advantage whatever for the Canadians or islanders to have the right to fish on the American coasts. We would not bother with it, as our own fisheries are so much better. There is an occasional good year for fishing on their shores, but not very often. Last year was a good year on their coasts.

13. On an average, there are eight hundred American vessels engaged in the cod, hake, and mackerel fisheries in the bay—that is, including this island coast, the Magdalen Islands, the New Brunswick and Nova Scotian coasts. There have been as many as fifteen hundred sail in a season, according to their own accounts. I myself have seen three hundred sail of them in a day.

14. That the American schooners do a great deal of harm to the boat fishing. They have run into boats; they come in and lee-bow the boats regularly; they also come in and throw large quantities of bait, and

drift off drawing the mackerel after them. They sometimes spoil a boat's summer's work.

15. Their cod-fishermen do harm to the fishing by throwing overboard the offal to the codfish. We know well enough when we see the American fleet coming that there is an end to our good fishing. The fishermen here look upon the arrival of the Americans as a serious injury and damage to the island fishing.

16. That there is, on an average, three hundred sail of American vessels every year engaged in herring fishing at the Magdalen Islands; they seine the fish, and take, on an average, about one thousand barrels each vessel. The herring fishing there is right inshore. I were herring fishing at the Magdalen Islands three years, and each year there were about three hundred sail of Americans there fishing. They send some home and more they ship away to foreign markets. That herring fishery is a very important trade to them.

17. That the right of transshipment is a very great advantage to the Americans, in two ways: they can ship their fish in time to catch good markets, which is very important to them, as the mackerel market is a very fluctuating one; they also save ten days clear fishing, right in the heart of the fishing season, that is clear of the three days they would take to unload and refit her. In good years that would amount to another trip in the course of the summer. The fish are also better and command higher prices by being sent up quickly; if kept in the vessels till they get to market, they are not nearly so good nor worth so much.

JOHN CHAMPION.

Sworn to at Alberton, in Prince County, Prince Edward Island, this 30th day of June, A. D. 1877, before me.

JOSEPH MACGILVRAY,
J. P. for Prince County.

No. 11.

I, SEBASTIAN DAVIDSON, of Tignish, in Prince County, in Prince Edward Island, accountant, make oath and say:

1. I have been connected with the fishing business as accountant and bookkeeper in different establishments for over twenty years in this part of the country. The business, so far as I have been engaged in it, has always been with boats.

2. There are a hundred boats fishing from Kildare to the North Cape of this island. The number of boats, I should say, has doubled in the last ten years. The quality of the boats has very much improved; they are fitted out better, have every requisite for fishing, and are better sailers than formerly; they can now stay out, instead of being obliged to return to shore every evening.

3. The American fleet is not now so numerous as it was a few years ago. A few years ago, before the Reciprocity Treaty was done away with, I should say it numbered from three to four hundred sail. I have seen them as thick as bees all along the shore. They used to fish all along this shore, up Bay Chaleur, at the Magdalen Islands, at Port Hood and other places, within three miles of the shore along here.

4. The herring fishery is important for bait about here; it was a failure here this year except in traps.

5. The right of transshipment is a great advantage to the Americans, inasmuch as they can land their first, refit, and be on the grounds again without much loss of time. They are also enabled by virtue of this right to take advantage of the fluctuations of the markets, and can even

sell their fish "to arrive." Under ordinary circumstances, I should say that the right of landing their fish, instead of taking them to the States in their own vessels, would be a saving of a fortnight each trip. They used to make two trips a summer.

SEBN. DAVIDSON.

Sworn to at Tignish, in Prince County, in Prince Edward Island, this 27th day of June, A. D. 1877, before me.

JOSEPH MACGILVRAY,

J. P. for Prince County, Prince Edward Island.

No. 12.

I, WILLIAM CHAMPION, of Cascumpee, in Prince County, Prince Edward Island, fisherman and fish-dealer, make oath and say :

1. I have been engaged in fishing for over ten years in both boats and schooners, one summer of which time I fished on board the American schooner *Banner*, of Belfast, Me.

2. There are fifty boats, I should say, fishing out of this harbor (Cascumpee) at the present time. The number has trebled in the last ten years. But Kildare, Tignish, Mimmigash, Nail Pond, and that way generally, the number has increased at a greater rate than here. The boats themselves are also very much better than they were some years ago. The number is still increasing ; has increased ten boats this spring in this harbor alone.

3. The average catch of mackerel for each boat is about seventy-five barrels, and about fifty quintals of codfish, and the same of hake.

4. Each boat carries on an average a crew of four men.

5. The boats fish along the shores, mainly within three miles of the shore. There are about nine-tenths of the mackerel caught by the boats caught within three miles of the shore ; the best ground is within that distance. About two-thirds of the codfish and half the hake caught in boats are caught within three miles of the shore ; in fact, the best ground for the two last-mentioned fish is about three miles out or thereabouts. Down eastward on this island, and about Port Hood, Antigonish, Cape George, and other places in that direction, the boats, and also the American schooners, fish close inshore.

6. I fished two summers in an island schooner, and one in the American *Banner* ; the *Banner* was about eighty tons burden ; I was fishing in her the year the cutters were around for four months ; we had a license to fish, so the cutters did not disturb us. She carried a crew of sixteen hands ; we caught four hundred barrel of mackerel, of which we transshipped three hundred at Charlottetown ; we were only three days out of the bay landing and transshipping the fish, and saved more than a fortnight in time.

7. The year I was in the *Banner* she and other American vessels used often to drift down on the boats, and used often to "lee-bow" them, throwing out bait, and taking the fish away ; there were about four hundred Americans fishing that year ; we fished right up in the Bay Chaleur and around the other shores of the provinces ; there were also a great many seiners out that year.

8. The average number of the American fleet each year is between four and five hundred. They catch on an average between five and six hundred barrels of mackerel each ; the Americans fish as a rule near the shores ; I do not think it would be worth their while to come down to fish unless allowed to fish within three miles of the shore ; the

fishermen and captains say they would not come down if kept away from the shore fishing; our captain insisted on getting a license before he would fish, and he and the crew paid for it; if there were enough cutters about, the Americans would keep away; ten or twenty small vessels fitted out as cutters would keep them off; schooners would be best for cutters.

9. By fishing near the shore the Americans do a great deal of harm to the mackerel, they chuck out so much bait. They have the very best of bait, and can carry the mackerel off shore with them, as the mackerel follow the bait. They "lee-bow" the boats and prevent their catching fish. The Americans often get right in among the boats fishing and spoil their chances of a catch.

10. Fishermen in boats look upon the arrival of the American fleet as the ruin of the good fishing, and I know it to be the fact. Their coming is thus a very great loss and injury to boat fishermen. The boats lie at anchor and the schooners drift down upon them, when the former have to get out of the way.

11. The mackerel fishing begins as a rule about the twenty-fifth of June and lasts till about the end of October.

12. The right of transshipment is a very great advantage to the Americans. They are thus enabled to take advantage of the markets. When we transshipped the three hundred barrels at Charlottetown we got twenty-four dollars and fifty cents American currency a barrel for them; had we been obliged to take them down ourselves we would have got to the market more than a week later with the fish than they arrived by transshipment, and then the price would have been seventeen dollars American money a barrel, so that by the transshipment of those three hundred barrels we saved exactly two thousand two hundred and fifty dollars American money, or seven dollars and a half a barrel, besides being able to remain on the fishing grounds. There were a number of other Americans at the same time who transshipped at the same time and gained in the same way. The right of transshipment also enables them to refit and save a great deal of time during the fishing season.

13. The mackerel come in here in the beginning of the season from the southward and eastward, and work northwardly and westwardly till about the middle of August, and then work back, striking this island both ways. The Americans know all about this and follow the fish. They know the course of the fish so well that they occasionally lay in wait to meet the schools of mackerel. I have known them go into Georgetown and wait in this way.

14. The Americans seine the fish and do a great deal of harm. I have known them off the Nail Pond shore, while seining for mackerel, strike upon a school of herring and take about five hundred barrels, which they threw away and the herring were destroyed.

WILLIAM CHAMPION.

Sworn to at Alberton, in Prince County, Prince Edward Island, this 26th day of June, A. D. 1877, before me.

JOSEPH MACGILVRAY,

Justice of the Peace for Prince County, Prince Edward Island.

DOMINION OF CANADA,

Province of Prince Edward Island, Kings County, to wit :

I, JAMES McDONALD, of East Point, in Kings County, in Prince Edward Island, mariner and fisherman, make oath and say :

1. That I have been personally engaged in the mackerel and cod fishing since the year 1848, and since the year 1854 I have been master of a fishing vessel. From the year 1848 to 1853 I was fishing in American vessels. I commenced the mackerel fishing in 1850. At that time the number of American vessels engaged in the mackerel fishery would be about 500 sail, and that year their average catch would be 600 barrels per vessel, of which fully nine-tenths would be caught inshore, within the three-mile limit.

2. From the year 1853 to 1860 I was fishing in British vessels. During that time there would be an average of 450 American vessels in the gulf engaged in the mackerel fishery.

3. That since the year 1860 I have still been engaged in the mackerel fishing. That the average number of American vessels during the fourteen or fifteen years next succeeding the year 1860, in the gulf, engaged in the mackerel fishery, has been 400. The average catch of these vessels during that time would be about 500 barrels per vessel. And I have no hesitation in saying that nine-tenths of all the mackerel caught within the last fifteen or seventeen years has been caught within the three-mile limits.

4. That when the mackerel arrive at the gulf they first strike the Magdalens, but there are none caught till they reach the Bay Chaleur and Seven Islands, where the first fare of the season is generally obtained. They then cross over to North Cape and along the north side of the island, keeping inshore.

5. That in the latter part of the season, from the middle of September to the first part of November, the weather will not permit of fishing any distance from the shore, being too rough ; and during that part of the season not one barrel in 5,000 is caught outside the limits.

6. That during the last two or three years the number of American vessels fishing in the gulf has fallen away considerably, owing partly to the mackerel not frequenting our coasts during these years in such large quantities as in former years, but this year the prospects are good.

7. That the right to transship is of great advantage to the Americans, as they thereby save time, and gives them an extra trip which they would not otherwise have.

8. That the large amount of offal thrown overboard by the Americans poisons the mackerel, and is an injury to the fishing ground.

9. That when we saw boats fishing near the shore we made a practice of sailing down on them, and with our good bait took all the mackerel, and the boats would have to give up till the mackerel came back again. The vessels coming in among the boats are also likely to scatter the mackerel, and the boats not being able to follow them any distance, lose them altogether.

10. That the Canadian and British cutters and men-of-war did not prevent the Americans from fishing within the limits, for when they saw one of them coming they stood out to sea till she passed, and then resumed their fishing operations within the limits again.

11. From an experience of nearly thirty years spent in mackerel fishing I would say that the best mackerel-fishing ground is close inshore, say

from one-half a mile to two and one-half miles from the shore, off the north side of the island, and that if the Americans could be prevented from fishing within the three-mile limit they would not frequent our shores at all for the purpose of fishing. During the last six or seven years the mackerel have kept more inshore than in former years. In fact, during the last few years, scarcely a mackerel would be caught outside the three-mile limit.

12. There is also a large fleet of American vessels engaged in the herring fishery off the Magdalens, Labrador, and Newfoundland; I should say about two hundred and fifty sails. These vessels are generally of a larger class than those engaged in the mackerel fishery, some of them carrying as many as three thousand barrels. From my experience and personal knowledge I would estimate that the Americans catch and take from these shores 150,000 barrels of herring annually, all of which are caught close up to the shore and well within the three mile limit. They also buy large quantities of herring from the shore-fishermen in Newfoundland, but these are not included in the above estimate.

JAMES McDONALD.

Sworn to at Souris, in Kings County, in Prince Edward Island, this 26th day of June, A. D. 1877, before me.

JAMES R. MACLEAN,
J. P. for Kings County.

No. 14.

I, JAMES H. DAVIDSON, of Tignish, in Prince County, Prince Edward Island, fish-dealer, make oath and say:

1. I have been for the last seven years running a fishing stage at the North Cape, and have been engaged in fishing all my life, as a practical fisherman, in boats all the time except one year, when I was on board the schooner Frank of this island.

2. That I believe there are fully two hundred boats fishing between Cascumpec Harbor and North Cape. During the last seven years the number of boats engaged in fishing has certainly trebled. The boats are better models, better rigged, better equipped, are better sailers, and are superior in every respect to what they used to be. During the last ten years the capital invested in the boat-fishing business along this coast has multiplied tenfold, and that is a moderate statement.

3. The boats will average three men to a boat, all round, for crew, and one man on shore, so that the two hundred boats would give, during the summer, constant employment to eight hundred men, and the number of boats is constantly increasing. I believe that the fishing in this part of the island is still in its infancy.

4. I should put the average catch of mackerel per boat, taking one year with another for the last ten years, at seventy-five barrels, and the average catch of codfish and hake at fifty quintals. The boats nearly always catch as many herring as they require. They get abundance for mackerel bait, for home use, and some to export. The boats would require, on an average, fifteen barrels of herring for bait, each boat, during the mackerel season.

5. Seven-eighths of the boat-fishing is done within three miles of the shore. All the mackerel and herring are caught within that limit, the codfish sometimes further out.

6. The reason for the increase of the number of boats is that people find it a profitable business, and the young men are going into it more and more. There is a special class growing up now, who are entirely devoted to and altogether dependent on fishing. Those men who devote

themselves entirely to it and study the habits of the fish, are by far the best and most successful fishermen. The business of fishing is now becoming respectable, whereas formerly it was not considered so. The fishery affords employment to an increasing population, which has not land of its own to farm. People gather from the inland parts to the fishing parts, in order to get employment in fishing. People come from other provinces here attracted by the fishing. It is particularly the mackerel fishing that is increasing.

7. The year I was out fishing in the Frank; we made a poor year's fishing. We made two trips in the bay and caught only three hundred barrels of mackerel. The Frank was about sixty-three tons and carried seventeen hands.

8. The year I was in the Frank was the year the cutters were around, and there were a good many Americans kept away and some taken. We were all in and about the American fleet that year, and they would number three hundred sail. They know the inshore fishing is the best and they will run risks rather than not have it. I do not think it would be worth their while to come down here to fish in the gulf if they could not fish within three miles of the shore; and it certainly would not be worth their while if they could not fish within the three-mile limit. I should certainly say that seven-eighths of the catch of the American catch is caught within three miles of the shore.

9. They lie among the boats. When they see the boats getting mackerel they come up and lee-bow the boats, throwing bait and drawing off the fish, when the boats have to leave. They certainly do harm to the fishing by throwing the offal overboard. By it the fish are glutted and poisoned. They also interfere with the bait-nets and get foul of the set-lines and trawls. The set-lines are now being used very much along here, and are increasing very fast, and as they increase, the damage done by the Americans is becoming greater.

10. The right of transshipment is of very great consequence to the Americans, as they save the time they would otherwise consume in going home with their fish, and that right in the middle of the fishing season. The time saved in this way would certainly be equal to another trip for the vessel during the season. By having this right they are also enabled to take advantage of the markets, so that if the price of mackerel is up they can at once send their fish up to take advantage of the high price. They can do this even if they have only a few fish. The mackerel market is one of the most fluctuating in the world, so that it is a very great advantage to get them into market quickly. The mackerel also get worse-looking the longer they are kept and command a smaller price. If they are kept in the hold of the vessel they are getting poorer all the time. By being transhipped this deterioration is avoided.

11. There are plenty of salmon off this shore, and since attention has been directed to them, the salmon fishery is found to pay, and when properly attended to it will become very profitable. They are caught off this coast in nets and traps. It is only recently that they were known to be there. There are also plenty of shad and some bass off this coast, which can be caught in traps.

The sounds taken from hake are now very valuable. For three years here the price of sounds averaged a dollar a pound, and the lowest price they have sold for was thirty-five cents. They would average seventy-five cents a pound one year with another. I would say that about four pounds of sounds are got to a quintal of green hake weighing two

hundred and eighty pounds. The value of the sounds is greater than the hake from which they are taken.

13. Codfish tongues and sounds are also put up and sold to some extent out of this island and are valuable.

14. The oil taken from the codfish and hake is of considerable importance, and there would be, on an average, about half a gallon, worth twenty-five cents, taken from every quintal of hake and codfish.

JAMES H. DAVIDSON.

Sworn to at North Cape, in Prince County, Prince Edward Island, this 28th day of June, A. D. 1877, before me.

JOSEPH MACGILVRAY,

J. P. for Prince County, Prince Edward Island.

No. 15.

DOMINION OF CANADA,

Province of Prince Edward Island, Kings County, to wit :

I, JOSEPH CAMPBELL, of Souris, in Kings County, in Prince Edward Island, master mariner, make oath and say :

1. That I have been personally engaged in the fisheries since the year 1855. From 1855 to 1858 I was fishing in boats off the north side of the island. We caught all our fish at that time within three miles from the shore.

2. That from the year 1858 to 1867 I was constantly and actively engaged in fishing aboard American vessels, and during that time I fished on all the fishing-grounds.

3. We got our first fare generally in the Bay Chaleur. Fully nine-tenths of this fare would be caught close inshore, within the three-mile limits.

4. The mackerel, after leaving the Bay Chaleur, strike across to the North Cape of Prince Edward Island, and some of them return to the Magdalenes. We generally got our second fare from the north cape of the island to East Point and at the Magdalenes, generally catching the fish within the limits. I would say that fully seven-eighths of this fare is caught within the three-mile limits.

5. From the year 1863 to 1867 the average number of American vessels fishing for mackerel in the gulf would, in my opinion, be about five hundred sail, and during those years the catch was good, averaging about six hundred barrels per vessel per season.

6. From my personal knowledge and actual observation I would say that fully seven-eighths of that quantity of mackerel were caught inshore, that is, within three miles from the shore.

7. Our usual mode was to go in close to the shore ; if in bold water, close up to the rocks, throw our bait and drift off, the mackerel following after the bait. When we lost the mackerel we again tacked for the shore.

8. That the American fleets of fishing-vessels very materially injure the boat-fishing off shore. The Americans have always made a practice of sailing down among the boats, and by throwing bait and drifting off draw the mackerel away with them. This is a very common occurrence, and must have been a great injury to the boat-fishing.

9. I think that the large amount of offal thrown overboard by the fishing fleets has a tendency to injure the fishing. The fish eat up this dirty and poisonous food and they will not then follow or take the bait. In this way this practice must be very hurtful to the fishing-grounds.

10. That the American vessels fished within the limits almost as much after the expiration of the Reciprocity Treaty as before. The treaty did not seem to make any material difference. The cutters did not to any extent prevent the Americans from fishing within the limits, as we could always see them coming, and had time to get outside the limits. Sometimes we merely pulled up our lines and fishing-gear, and as soon as the cutter would pass we would resume our fishing.

11. From the year 1867 to 1872 I was master of a British fishing-schooner. During these years there would be about four hundred and fifty American vessels in the bay, and their average catch per vessel would be about four hundred and fifty barrels per season. Fully seven-eighths, in my opinion, of all the mackerel caught in the bay by Americans during the years between 1867 to 1872 would be taken within the three-mile limit.

12. The American vessels in large numbers would often sail down on the few British vessels fishing in the bay and lee-bow them and by their larger numbers generally succeeded in drawing away the fish from the British vessels.

13. The right of transshipping is a great benefit to the Americans. They thereby save time enough to make an extra trip, which they could not otherwise make without this right.

14. That I have also been engaged for several years in the herring-fishery off Labrador in American vessels. There are about two hundred and fifty to three hundred American vessels engaged on the coasts of Labrador, Newfoundland, and the Magdalenes in this fishery. These vessels are of a larger build than those engaged in the mackerel-fishery. The average quantity taken from these coasts by these vessels would be about one thousand barrels per vessel per season, making a total of from 250,000 to 300,000 barrels per year. A proportion of this quantity is bought from the fishermen along the coasts of Newfoundland. I would say about one-half are bought. All the herring are caught close in-shore, from one-quarter to one-half mile from the shore.

JOSEPH CAMPBELL.

Sworn to at Souris, in Kings County, in Prince Edward Island, this twenty-seventh day of June, A. D. 1877, before me.

JAMES R. MACLEAN,

J. P. for Kings County.

No. 16.

DOMINION OF CANADA,

Province of Prince Edward Island, Kings County, to wit :

I, ALEXANDER CHIVERIE, of Souris, in Kings County, in Prince Edward Island, formerly fisherman, now merchant, make oath and say :

1. That I commenced mackerel fishing in the year 1847, in an American schooner named the "Triton." In those years there would be from 500 to 600 sail in the bay. The schooner I was in was generally in company with 100 to 200 sail. At that time I did not hear anything of the three mile limits. It was not till the year 1852 that I first heard any talk regarding the limits.

2. The first year I was fishing, we left the American ground in the fall in September, and came to the bay. We fished off the north part of Cape Breton and caught the whole of our fare within three miles from the shore.

3. The custom generally adopted by the fishermen is to go within a mile of the shore, heave our bait and then drift off, taking the fish with us.

4. The cutters did not to any extent prevent the Americans fishing within the limits. They would simply sail off till the cutters had gone by and commence fishing again within the limits.

5. I remained fishing in American vessels till the year 1867. I would say that the average number of American vessels fishing mackerel in the bay, between the years 1847 and 1867, was from four hundred to five hundred sail each year, and that the average catch per vessel during those years was 400 barrels each season.

6. That without a doubt two-thirds of the above quantity was caught within three miles from the shore.

7. That in the year 1867 I was master of a British fishing-schooner. The first trip of that season we fished between the Miramichi and Bay Chaleur. During that trip the fish played chiefly inshore, about a mile from the shore. At times during that trip I would be getting a good catch, when the American vessels, to the number of fifty or sixty, would come along, and by drawing off the fish spoil my fishing. During that trip the Americans, I would say, caught fully three-fourths of their fare within the three-mile limit. During the second trip of that season I was fishing on the north side of the island and caught all that fare within three miles from the shore. On several occasions during that trip a fleet of American vessels would come up alongside and spoil my fishing.

8. That since that year I have not been personally engaged in fishing, but I have owned fishing-stages and have had boats engaged in shore-fishing.

9. That I have noticed the American vessels come in among the boats fishing from one to two miles from the shore, heave their bait, and draw off all the mackerel. The boats would then be obliged to give up fishing for that day. This is a very common practice among the American vessels, and I have noticed it on several occasions during the last few years.

10. That the numbers of boats engaged in prosecuting the mackerel fisheries have largely increased during the past few years.

11. That fully three-fourths of all the mackerel caught in the boats is caught inshore well within the three-mile limits.

12. Without a doubt the Americans would not come to the bay at all for fishing purposes if they could be kept outside of the three-mile limit altogether.

ALEXANDER CHIVERIE.

Sworn to at Souris, in Kings County, in Prince Edward Island, this twenty-seventh day of June, A. D. 1877, before me

JAMES R. MACLEAN,

J. P. for Kings County.

No. 17.

I, JAMES J. MORRISAY, of Tignish, in Prince County, Prince Edward Island, fish-stage proprietor, make oath and say :

1. I have fished for four years and have been proprietor of a fishing-stage at Frog Pond the whole time. The first year I had one boat, and caught about forty-five barrels of mackerel in her ; that year I also got about one hundred and twenty barrels of herring, worth about three dollars a barrel ; I caught about ten quintals of codfish in that boat the same year ; she was a small boat.

2. The second year I had five boats, and caught about four hundred barrels of mackerel. I also caught about eighty quintals of ling the

same year, in those boats, and about sixty of codfish, and about two hundred and fifty pounds of sounds, then worth sixty cents a pound.

3. The third year I had six boats, and caught about one hundred and sixty barrels of mackerel, and about forty quintals of codfish and hake, and about fifty-five barrels of herring. That was a really poor year.

4. This year (1877) I have nine boats, and have caught about fifteen barrels of herring. I have also more codfish already caught than I had the whole of last year. This promises to be a good year, so far as I can judge.

5. At Nail Pond I should say the number of boats has increased about one-fifth during the last three years. I think the boats are now much better built, rigged, and fitted out than they were.

6. The average crew of the small boats is about three men, of the large boats the crew would be four men. There are twenty dollars now invested in the business to the one there was ten years ago.

7. The boats get near about the whole of the mackerel caught by them within a mile and a half to two miles of the shore; the boats very seldom go beyond two miles out. The hake are generally caught within three miles of the shore, and the codfish generally further out.

8. About three years ago I have seen as many as three hundred American schooners anchored off this shore, within a mile. I have seen some of them fishing so close inshore that they got aground. The principal part of the fishing that I have seen the Americans do, has been within three miles of the shore. Taking one year with another, I do not think it would be worth their while to fit out for the gulf fishing if they could not fish within three miles of the shore. I have heard the American captains say so.

9. I have seen the Americans drift down on the boats, not minding the latter, on several occasions, and on several occasions the boats, lying at anchor, had to cut their cables to save themselves from being sunk.

10. The Americans spoil the fishing in this way: they see the boats fishing and drift down on them, when the boats have to get out of the way and thus lose the mackerel. They have also better bait than we have and by its means draw off the fish, and they throw out a great deal of bait.

11. Very few Americans fished within three miles of the shore the year the cutters were here. I saw them within three miles of the shore, when they saw the cutter's smoke, clear out.

12. Whenever the Americans heave in the fishermen from boats grumble and complain that the good fishing is at an end, and that the Americans sink the mackerel with bait. The boat-fishermen look upon the arrival of the Americans as a serious loss and injury to themselves.

13. The mackerel season here lasts from about the 20th of June till about the middle of October.

14. I would look upon the right of transshipment as a very great privilege to the Americans, as they could ship away their mackerel without losing much time going with them, and by this right they would be enabled to catch the markets, two or three days often making a very great difference in the mackerel market. They are also enabled through having this right to refit here instead of losing time going home for that purpose.

15. About three years ago the Americans did some seining here, but I have not seen them doing any since.

16. I would give as a reason for the increase of the number of boats that the young men think they can do better in it; and also because the

population is increasing, and also the spirit of enterprise among the people.

JAMES MORRISAY.

Sworn to at Tignish, in Prince County, Prince Edward Island, this 27th day of June, A. D. 1877, before me.

JOSEPH MACGILVRAY,
J. P. for Prince County, Prince Edward Island.

No. 18.

I, EDWARD HACKETT, of Tignish, in Prince Edward Island, merchant, and member of the Local Parliament for the first district of Prince County, make oath and say :

1. That previously to the last two years I was personally engaged in the fishing business for about fifteen years. Part of this time I carried on a fishing business, and part of the time I was engaged as a practical fisherman.

2. There are now about one hundred boats fishing out of Tignish Harbor alone. The number has increased very much within the last few years. There are larger and better boats now than there were ten years ago; they are better built, rigged, and equipped now than they were then. There is also more capital, by a large amount, invested in the business than there was ten years ago, and the crews are more experienced in fishing than the crews were then.

3. The boats would average about four men to each boat, some having more and some less. The boats, taking one year with another, would have an average catch of fifty barrels of mackerel to each boat, and they would also average about fifty quintals of codfish and hake to the boat. This is taking the average for both big and small boats.

4. The reason of the increase in the number of boats is, that more people embark in the business and invest capital in it, because they found the fishing to be a remunerative business, and also from the increase of population and of enterprise.

5. The herring fishery, as a general thing, is a very reliable fishery; the fishermen generally catch enough for bait and for home consumption. About ten barrels to a boat, of herring, are required for bait during the mackerel season. This year the net fishing of herring was a failure.

6. The boats invariably fish for mackerel, and almost invariably within three miles of the shore. The best mackerel fishing-ground is from one mile to two miles and a half from the shore.

7. The American vessels generally come off here in June, and are reported to make generally two trips in the summer. They generally also fish within three miles of the shore. They take a very large quantity of mackerel in among the boats and are a great annoyance to the boats. They come in among the boats and throw bait and drift off, carrying the fish with them. They come in among the boats and often run them down; they are careless to the injury they may do to the boats. When they see a boat getting mackerel they make straight for it and draw off the mackerel by every means they can employ, throwing out bait in large quantities.

8. I have often counted a hundred American vessels fishing between North Cape and Cape Kildare, a distance of not more than ten miles; and that would be only a small portion of the whole fleet.

9. The right of transshipment is a very great benefit to the American

fishermen. When they land their catch of fish they can at once fit-out again and be on the grounds again without the loss of time they would incur by being compelled to go home with their loads. They thus save from two to three weeks in the trip, and that in the very best of the fishing. That would amount to a trip saved in the course of the summer. They are thus enabled also to watch the fluctuations of the markets, the mackerel market being a very variable one, and a few days often making a very great difference in that market.

10. The boat fishermen always rave when they see the Americans come here in numbers, and look upon their arrival as a great loss to themselves.

EDWARD HACKETT.

Sworn to at Tignish, in Prince County, Prince Edward Island, this 27th day of June, A. D. 1877, before me.

JOSEPH MACGILVRAY,
J. P. for Prince County.

No. 19.

I, MAURICE O'CONNOR, of Kildare Cape, in Prince County, Prince Edward Island, fisherman, make oath and say:

1. That I have been engaged in the fishery as a business for the last eight years; before that I had been fishing for about two years. I have fished in boats out of Kildare, Nail Pond, and Rustico in this island.

2. There are about forty boats fishing off this shore, this side of any harbor. These are mostly smaller boats than those that fish out of the harbors. They are made small so that they can be easily beached in case of a storm or any other necessity, there being no place of refuge for them on the shore. They are mostly owned by farmers, who want to haul them up often. The number has trebled within the last ten years, and the boats themselves are far better. There is more than twelve times the capital invested in the business on the shore now that there was ten years ago. These boats carry on an average a crew of about three men each.

3. The Americans used to fish off this shore in large numbers. I have seen hundreds of them fishing right inshore among the boats. They stretched right up the shore from this cape as far as one could see.

4. The Americans sometimes run in among the boats and hurt them. If they see the boats getting fish they run in and "lee-bow" the first thing, throwing bait and taking the fish away. Unless there is a very large body of mackerel where they are fishing, the boats have no chance.

5. The Americans prefer the shore fishing. They fish close in when the wind is off shore, drifting off and taking the fish with them. They throw very much pogie and clam bait, which enabled them to take off the mackerel. I do not think they would come down here to fish if not allowed within three miles of the shore. The boat fishermen always look upon the arrival of the American fishermen as a great injury to the boat fishing. The Americans throw so much bait that the mackerel get gorged and will not bite, but go off, the Americans following them.

7. The cutters kept the Americans off the shore a good deal, but they used always try to steal in again. They used to come in then and drift off. When a cutter was anywhere near, the Americans kept off; that was a great advantage to the boatmen, as they then had all the shore fishing to themselves.

8. The best fishing-ground for mackerel is near shore, within three miles of it.

9. One reason for the increase of the number of boats is that the population is increasing and there are plenty of young men about who want

employment, and they find the fishing pays them fully as well as farming.

10. There are large quantities of herring caught along here as a general thing. Probably ten barrels of herring to a boat are used for bait in the mackerel fishing.

11. Off Nail Pond the Americans often seine for mackerel, and I have seen them off here looking for the mackerel in order to seine.

12. This year I am engaged in the salmon fisheries off this coast. The salmon are caught in nets and traps. The salmon here are very fine. The average weight of those caught by me this year has been twelve pounds each. They have been caught on this shore weighing thirty-six pounds. The salmon-fishing has only lately been started here. It will pay I believe, and the trade in salmon is springing up. When properly looked after this branch of the fishery will become very valuable. The salmon are all caught off the shore and not in the rivers.

MAURICE O'CONNOR.

Sworn to at Kildare Cape, in Prince County, Prince Edward Island, this 27th day of June, A. D. 1877, before me.

JOSEPH MACGILVRAY,
J. P. for Prince County, Prince Edward Island.

No. 20.

I, ALEXANDER LARKIN, of Alberton, in Prince County, Prince Edward Island, merchant, make oath and say :

1. That I have been engaged in fishing for twenty-five years, principally in the boat-fishing; I have had vessels in the business. I have been carrying on the business at stages.

2. There are about two hundred boats engaged in fishing from Cascumpec to the North Cape. The number has greatly increased during the last few years. The boats are a very much better class of boats now than a few years ago; they are larger and better fitted out. There is also much more capital invested in the business now than formerly. The average crew of each boat, taking large and small together, would be at least three. There are also a number of shore-men employed in connection with the boats. The greatest quantity of the fish, I should say over three-quarters of the whole catch, is caught within three miles of the shore.

3. I account for the increase of the boat-fishing, because people found it profitable to go into fishing.

4. I have several times known over three hundred sail of American fishing-schooners to be in this harbor at a time, and it was never considered that more than half their fleet were in. They used very often to fish inshore, and often to the injury of our boat-fishermen; they come among the boats, which are getting fish, and bait the school of mackerel, and carry it off.

5. The Americans, when the cutters were about, always evaded them if possible, even at a risk to themselves. The cutters kept them off to some extent, and made several seizures.

6. The right of transshipment here must be an advantage to the Americans, but I cannot state to what extent.

ALEXANDER LARKIN.

Sworn to at Alberton, in Prince County, Prince Edward Island, this 29th day of June, A. D. 1877, before me.

JOSEPH MACGILVRAY,
J. P. for Prince County.

No. 21.

I, GILBERT PERRY, of Frog Pond, in Prince County, in Prince Edward Island, owner of fishing stages and fish dealer, make oath and say:

1. That I have been engaged in the fishing business about eighteen years; fifteen years of that time I have been actually engaged in fishing, and am well acquainted with the fishing ground around here. My experience has been in boats.

2. There are at least one hundred and fifty boats engaged in the fishing between Frog Pond, Skinner's Pond, and Nail Pond. There are sixty-three boats engaged in the fishing at Frog Pond alone. Each boat would average a crew of three men each; no boat less than three; some more.

3. The number of boats at Frog Pond alone has increased twenty boats within the last year, and I would say there are ten times as many boats engaged in the fishing as there was ten years ago, and the number of stages are greatly increased. The boats themselves are getting better every year, being better sailers, better equipped, and better rigged than they were.

4. Taking one year with another, the boats (large and small) average about fifty barrels of mackerel in the season, and on this shore they average about thirty quintals each, cod and hake. As a general thing sufficient quantities of herring are taken for bait and for home use. Each boat on this shore requires about twenty barrels of herring for mackerel bait during the season.

5. The reasons I would give for the increase for the number of boats is, the increase in population and trade, the trade becoming more and more opened up, and the business affords employment to a large number of men who could not otherwise get employment. The great reason is, that the fishing business is so very remunerative.

6. I should say that the average number of American vessels fishing in the bay during the last ten years would be over four hundred. They generally come down here about the first of July and fish all summer; they fish all across, between here and the New Brunswick shore, this side of the island being opposite the New Brunswick shore.

7. When the cutters were about here they frightened the Americans off a good deal. Very few of the Americans fished inside that year. That, of course, would greatly injure their fishing; the best of their catching is within three miles of the shore. I don't think it would pay them to fit out for fishing unless allowed to fish within three miles of the shore. That year, when they used to come in here to water, they used to complain that the cutters caused them great loss.

8. When the American fishermen see our boats getting mackerel, they come among them, throw large quantities of bait, and draw off the fish; they sometimes drift down on our boats, and I have sometimes seen them upset and sink our boats.

9. I consider that the right of transshipment would be a very great advantage to the Americans, particularly in a good fishing season, as by means of it they are enabled to land their fish, refit for a new voyage, and be on the fishing grounds in a very short time. I consider they save at least two weeks each trip, which would be equal to another trip for the season.

10. The Americans used to do a good deal of harm here seining the mackerel. Two or three years ago, in particular, they used to catch large

quantities of fish, not one half being mackerel, the rest being herring and other fish, which were destroyed and thrown overboard.

GILBERT ^{his} × PERRY.
mark.

Sworn to at Frog Pond, in Prince County, in Prince Edward Island, this 28th day of June, A. D. 1877, before me, the same having been first read and fully explained to the said Gilbert Perry, who signed by his mark.

JOSEPH MacGILVRAY,
J. P. for Prince County.

No. 22.

I, AGNO J. GAUDET, of Nail Pond, in Prince County, Prince Edward Island, fisherman and fish-trader, make oath and say :

1. I have been engaged in the fishing business for about fourteen or fifteen years, part of the time in boats and three years in the schooner Frank, the years of 1866, 1867, and 1868. In the schooner we fished all around the island, from West Cape to East Point, Magdalen Islands, Bay De Chaleur to Point Le Pau, and along the Cape Breton shore. She was over sixty tons burthen, and had a crew of from fifteen to eighteen hands. The first season we got shipwrecked and did not do much, the second year we went seining and got over two hundred barrels of mackerel and some thirty or forty barrels of herring.

2. I consider that within the last thirteen years the boats have increased seven fold, they carry an average crew of three men each, besides giving employment to a great number of shore-men ; taking one year with another, they average about fifty barrels of mackerel each. As a general thing, we catch as many herring as we want round this coast, for mackerel-bait and for home use. The best mackerel fishing is done from the shore to two miles and a half out.

3. Along this coast the Americans very often fish mackerel within three miles from the shore, and I believe it is a great advantage for them to have the privilege of fishing within three miles of the shore.

4. I consider the right of transshipment a great advantage to the American fishermen ; by doing so they can transship their mackerel here, refit, and return to the fishing-grounds without losing much time, and thus save a fortnight each trip, which, in a good fishing-season, would be equal to another trip.

AGNO J. GAUDET.

Sworn to at Nail Pond, in Prince County, Prince Edward Island, this 28th day of June, A. D. 1877, before me,

JOSEPH MacGILVRAY,
J. P. for Prince County.

No. 23.

I, WILLIAM S. LARKIN, of Nail Pond, Tignish, in Prince County, Prince Edward Island, fish-dealer and fisherman, make oath and say :

1. I have been engaged in fishing for thirteen years, principally in boats, but one summer in a schooner, the Rechabite, and am well acquainted with the fishing-grounds.

2. I made a trip of three days, in June, 1874, on board of the American schooner Cynosure, of Booth Bay, Me., in which time we fished

close to this shore and took two hundred barrels of mackerel. She took six hundred and seventy barrels of mackerel in eight days that trip. She was about one hundred tons burden and carried fifteen or sixteen hands. Her catch was all caught within three miles of the shore.

3. There must be fully two hundred boats fishing between Mimmigash and Nail Pond, and I should say more. The last three years the number of boats has doubled, and more. The boats themselves are of a better quality than they were three years ago. The capital invested in boat-fishing has also doubled or trebled during the same time.

4. The reason there has been such an increase is because people found the fishing to pay.

5. Each boat, on an average, carries a crew of about three men. A number of shoremen are also employed in connection with the boats.

6. As a general thing the boats get their codfish from three miles out to a half mile from shore; the spring codfish are right in handy the shore; the mackerel range from half a mile to three miles off; the greater part of the mackerel are caught about a mile and a half from the shore; in the fall of the year they move off to about three miles; I should say two-thirds of the fish here are caught within three miles of the shore; the ling are caught about two miles and a half to three miles from the shore.

7. Some years, some of the boats catch over two hundred barrels of mackerel each; taking one year with another for the past ten years, I would put the average catch of mackerel at fifty barrels per boat. I would put the average catch per boat, taking all sizes, of codfish and ling, at about fifty quintal.

8. When the Americans come here they fish in about from one to three miles from shore. I have seen them so close that they have run aground.

9. When there is a fleet of Americans here they hurt the boat-fishing and draw off the fish. Their bait is better than ours, and they throw it and draw away the fish from our boats. While they are here the boats do not do much, as a general thing. The fishermen look upon the arrival of the Americans as the break-up of the boat-fishing.

10. The right of transshipment is a great advantage to the Americans, because they can unship their fish here and send them home while they themselves can go on with their fishing; they would thus save from three to four weeks a trip; that would be equal to a trip saved during the summer. Another advantage is that they can send on their fish, even half loads, in time to catch the good markets, which they could not do if obliged to go home with their cargoes, and as the mackerel is a very variable market this is a very great advantage.

11. The mackerel season lasts on the shore from the first of July until toward the end of September. The Americans get here about the beginning of July. The Americans seine for mackerel along here.

WM. S. LARKIN.

Sworn to at Nail Pond, Tignish, Prince County, in Prince Edward Island, this 28th day of June, A. D. 1877, before me.

JOSEPH MacGILVRAY,

J. P. for Prince County.

No. 24.

DOMINION OF CANADA,

Province of Prince Edward Island, Prince County :

I, MICHAEL FOLEY, of Alberton, in Prince County, in the said Island and Dominion, merchant, make oath and say :

1. That I am at present and have been for the past three years doing business in Alberton aforesaid, and that an important part of my business consists in prosecuting the fisheries on the north and west coasts of this island.

2. That I furnish supplies to about eighty fishing boats, which supplies consist of bait, hooks and lines, provisions and necessary clothing for the men on board said boats ; and that the men required to complete the crews of said boats, and to cure and land the fish taken by the boats, would amount in the aggregate to four hundred men—a few more or less.

3. That I am in frequent communication with the fishermen in my own employ, and with others who prosecute the fisheries on their account (and whose catch of fish I purchase), and consider myself capable of furnishing correct information as to the manner in which the shore fisheries of this province are carried on.

4. From my own personal observation, and from information obtained in the manner set forth in the preceding section, that nearly if not all the mackerel taken by the boats are caught within three marine miles from the shore, though a large boat may take in the season fish further off the land.

5. In a good season a boat's crew will catch between 50 to 80 barrels of mackerel, besides a quantity of herring, codfish, and hake, and the greater part of the codfish and hake are caught more than three miles from the coast line, but within the three-mile limit, and the herring are caught within three miles of the shore.

6. The boats are sometimes interfered with while fishing by American fishing schooners coming near them, throwing a large quantity of bait and by that means taking away the fish that may be around the boat ; the schooners frequently drift and come in contact with the boats when the latter are at anchor, fishing, thus causing serious damage to the boats and their outfit.

7. In the summer of the year 1868, I was in charge of my own vessel, the *Lily Ada*, of the burden of 55 tons, and was master of said vessel and continued to use the said vessel during the fishing season of that year for fishing only, and myself and crew of said vessel caught 250 barrels of mackerel, three-fourths of which catch were taken within three miles of the coast, and the remainder were taken within the three-mile limit, and during that summer my vessel was in company with the fleet of American fishing schooners on the coast of this island fishing, and the fish so taken by the different vessels of the American fishing fleet were caught at or near the same fishing grounds and in the same manner as those fish taken by my vessel.

8. For the past three years I have furnished supplies to fishing stages built for the purpose of packing and curing fish at Mimmigash, Hayward's Cove, Frog Pond, Black Pond, Nail Pond, Kildare, and Cascumpec Harbor, and these stages are visited by me almost daily during the fishing season, and from my observations made at the different stages, which are all in prominent places on the beach, I should say that fully one-half of the fish caught by the American schooners (fishing at or near that part of the coast) are caught within three miles from the shore, and

the greater part of the remainder of their catch are taken within the three mile limit.

9. A great advantage accrues to the American fishermen fishing on the coasts of this island, from the fact, from their right of transshipment, as when a large catch of fish is made, they can with very little delay transship their cargo, and immediately resume the fishing; they are also enabled to take speedy advantage of a profitable market.

10. The harbor of Cascumpec is at present frequented by the vessels of the American fishing fleet, and is near the fishing grounds and easy of access, and if the same is improved, it would to a very great extent add to the safety of the vessels fishing on the coasts of this island, and materially assist and make secure the American fishing schooners while engaged in the fisheries on the coasts of this island.

11. That great facilities are engaged by the American fishermen on the coasts of this island, by being unable to secure clam and other bait and by replenishing their supply of wood and water from the shores of this province.

12. That fishing in boats has increased to a very great extent during the last few years, and the boats now employed are larger and in all respects better found than those formerly used.

13. I have been for twelve years master mariner and ship-owner, and have been during that time sailing principally in the Gulf of St. Lawrence and am well acquainted with the coasts of this island.

M. FOLEY.

Sworn to at Summerside, in Prince County, in Prince Edward Island, the 26th day of June, A. D. 1877, before me.

JAMES W. HOWE,

*Commissioner for taking Affidavits in the Supreme Court,
and Notary Public for Prince Edward Island.*

No. 25.

DOMINION OF CANADA,

Province of Prince Edward Island, Kings County, to wit :

I, MARSHAL PAQUET, of Souris, in Kings County, in Prince Edward Island, farmer and fisherman, make oath and say :

1. That I have been personally and actively engaged in the mackerel fishing in the Gulf of Saint Lawrence from the year 1860 to 1869. In 1860 I commenced fishing in an American vessel, the Morning Star. We made two trips to the gulf during that summer, and caught 450 barrels. During that season there were about 500 American vessels in the Gulf of Saint Lawrence prosecuting the mackerel fishery. Their average catch during that year was small, not more than 300 barrels per vessel. During six weeks of that summer we were on Bank Bradley, and did not get any fish. We then came down to Bay des Chaleurs where we got a few. We left the bay and crossed over to the island, where we caught most of our fare, about two-thirds, within three miles off the shore.

2. That in the year 1862 I fished mackerel in the American vessel Mary W. Dodge. During that year there were at least 500 American vessels fishing mackerel in the gulf. The average catch of that season was small, not over 350 barrels per vessel, two-thirds of which would be caught within the three-mile limits.

3. That in the year 1864 I was again engaged in mackerel fishing, aboard the American vessel S. A. Parkhurst, of sixty tons burden. During that year we made three trips to the gulf, making a total catch

of nine hundred and fifty barrels, fully three-fourths of which we caught from one to three miles from the shore; there was a large number of American vessels in the gulf that season—over five hundred; the catch was very good, some of the vessels taking as many as thirteen hundred barrels. I should say the average catch that season would be over six hundred barrels per vessel. Averaging the ten years between 1860 and 1870 that I was engaged in the fishing, I would say that the American fleet would number four hundred sail each year—their average catch would be four hundred and fifty barrels per vessel each season, and of this number, without a doubt, two-thirds were caught inshore within the three-mile limits.

4. Our usual custom in fishing was to sail in close to the shore—from one-half to one mile of the shore—heave our bait, and drift off, taking the mackerel with us. Time and again when I was fishing in American vessels, we have gone in among the boats fishing near the shore, and, heaving our bait, which was generally superior to that used in the boats, take all the mackerel with us, and the boats would have to wait for another school to come along.

5. During the year 1868 I was boat fishing out of Souris Harbor. The Americans, when they saw us catching in the boats, made a practice of coming in among us and attracting away the mackerel, which they always succeeded in doing. They would thus draw all the fish away from the boats and the shore, and in some cases it would be a week or more before we would get a catch worth speaking of. This practice is very injurious to the boat fishing. Since the year 1870, I have noticed, while engaged in trading in fish, that the American vessels have continued this practice.

6. There were as many mackerel caught inside the limits since the Reciprocity Treaty has expired as before. In fact, the expiration of the treaty did not seem to make any difference with regard to the limits. The cutters did not prevent, to any extent, the Americans from fishing within the limits, as they would generally keep a good lookout for the cutters, and when they saw a cutter in the distance would stand off till she had passed, and then commence fishing within the limits again.

7. From my experience and personal knowledge, I would say that the Americans would not come to the Gulf at all if they could be wholly prevented from fishing within the limits, as fully two-thirds of all the mackerel taken are caught within from one to three miles off shore.

MARSHAL PAQUET.

Sworn to at Souris, in Kings County, in Prince Edward Island, this 27th day of June, A. D. 1877, before me.

JAMES R. MACLEAN,

J. P. for Kings County.

No. 26.

DOMINION OF CANADA,

Province of Prince Edward Island, Kings County, to wit :

I, PETER DEAGLE, of Rollo Bay, in Kings County, in Prince Edward Island, make oath and say :

1. That I was personally engaged in the mackerel-fishery from the year 1864 to 1870, in American vessels.

2. That I commenced fishing in the American schooner Northern Chief in 1864, and during that year we took nine hundred and forty barrels. In 1865 I fished in the Safronia, from Gloucester, and that season we caught seven hundred barrels. The next year I was in the S. A. Parkhurst, and we caught six hundred barrels. In 1867 I fished in

the Northwester, also from Gloucester. This year was not as good as former ones. Our catch was five hundred and eighty-five barrels. In 1868 I made one trip late in the fall of the year. Our catch for that trip was ninety barrels. In 1869 I fished in the Pescadore, and that year we made two trips, catching, during the first, two hundred and twenty barrels, and, during the last, one hundred and seventy barrels, making three hundred and ninety barrels for that season.

3. That during the six years from 1864 to 1870, my opinion, from actual observation, is that there were about four hundred American vessels of an average in the gulf each year, and that the average catch per vessel would be about four hundred barrels each season.

4. That I have no hesitation in saying from my personal experience during that time that at least three-fourths of all the mackerel caught in the Gulf by American vessels have been taken within the three-mile limits.

5. The cutters did not trouble us anything to speak of, and I do not think they interfered with vessels fishing within the limits to any extent.

6. At that time there were large numbers of boats fishing off Rustico and Tignish. The catches of these boats would no doubt have been much larger if the Americans did not visit our coasts and fish inshore.

7. Judging from the large proportion of the fish caught by the Americans within the three-mile limits, I am of opinion that they would not come here at all for fishing purposes if they could be wholly prevented from fishing within the three-mile limits.

PETER DEAGLE.

Sworn to at Souris, in Kings County, in Prince Edward Island, this twenty-seventh day of June, A. D. 1877, before me.

JAMES R. MACLEAN,

J. P. for Kings County, Prince Edward Island.

No. 27.

I, SAMUEL PROWSE, of Murray Harbor, in Kings County, Prince Edward Island, member of the local government, make oath and say :

1. That I have been engaged in the fishing business in Murray Harbor for eleven years.

2. That there are about forty boats or more engaged in fishing out of Murray Harbor, the values of which would run from one hundred and fifty to five hundred dollars each ; there are also six or seven schooners. These boats take crews of about four men each, besides the men employed on shore, who number about thirty men.

3. That there are a large quantity of fish taken by small boats along the shore, of which we have not the means of forming a correct estimate. The boats above mentioned, together with what fish are taken in the immediate vicinity by the small boats along the shore, take over three thousand quintals of codfish and over four thousand of hake. There cannot be less than seven thousand pounds of sounds taken from these hake, worth, at a low estimate, fifty cents a pound. The codfish are worth about three dollars, and the hake two dollars the quintal. There are about four thousand gallons of oil taken from these fish, worth from forty to forty-five cents a gallon. The fishing-stages here pay little attention to mackerel fishing, as the cod-fishing off here is the more profitable, and fishermen get the mackerel chiefly for bait, and they are dependent on the mackerel for their codfish bait. The Americans, by destroying the mackerel fishing on the shore, injure our cod-fishing.

4. That the principal part of the codfish brought into this harbor are caught along the shore, between Wood Island and Souris.

5. That it is not an unusual thing to see from eighty to a hundred sail of American fishing vessels hove to, fishing mackerel between this and Georgetown, many of whom fish on Sunday as much as on any other day. The number above mentioned are the vessels seen at one time, and by no means include the whole number of their vessels in the Straits. I could not make an estimate of the amount of fish taken by them, but judge it must pay them well to come here to fish, otherwise they would not continue to come.

6. That the Americans interfere with our boat hake-fishing, as the boats are dependent on the shore mackerel-fishing for bait, and the Americans come in, throw large quantities of bait and glut the fish, so that they will not bite and the boats cannot get them. Complaints are also being continually made by the fishermen that the garbage and offal from the fish thrown out by the Americans injure the fishing. Now, also, by the use of set-lines for codfish and seines for mackerel, much larger quantities of fish are taken by the Americans than formerly.

7. That by having the right to land their fish here and transship them, and refitting, I believe the Americans are enabled to make an additional trip in the season, which they would be unable to do were they obliged to take the fish home in their own vessels. They can also watch and take advantage of the fluctuations in the mackerel markets, which are very variable.

SAMUEL PROWSE.

Sworn to at Murray Harbor, in Kings County, Prince Edward Island, this 30th day of July, A. D. 1877, before me.

MALCOLM MACFADYEN,

J. P. for Kings County.

No. 28.

DOMINION OF CANADA,

Province of Prince Edward Island, Kings County, to wit:

I, DANIEL MCPHEE, of Big Pond, in Lot Forty-five, in Kings County, in Prince Edward Island, fisherman, make oath and say:

1. That I have personally been engaged in the mackerel and cod fishing in the Gulf of Saint Lawrence since the year 1863.

2. That in the year 1863 I commenced mackerel-fishing in the American vessel Messina, and that during that year we fished in the Bay Chaleur, and took home with us six hundred barrels of mackerel during the fishing-season of that year, one-third of which quantity, I would say, was caught within three miles of the shore.

3. That during that season, and up till about the year 1870, there were about 500 American vessels in the Gulf of Saint Lawrence engaged in the mackerel-fishery.

4. That during the years intervening between the years 1863 and 1870, my opinion is that the average catch of mackerel per season would be 500 barrels per vessel.

5. That from my experience and from my personal observation, I would say that one-half of the total quantity of mackerel caught by the American fishing-fleet has been caught within three miles of the shore.

6. That during the years 1867 and 1868, I would say that 100 of the American vessels fishing in the Gulf of Saint Lawrence took out a license, paying fifty cents per ton for the privilege of fishing within the three-mile limits.

7. That those vessels that did not take a license (and which were by

far the greater number), if they were fishing within the limits, would hoist sail when they saw a Canadian cutter coming, and go outside, wait till the cutter had passed, and then go back within the limits and resume the fishing again. That the cutters did not, to any appreciable extent, prevent the fishing within the limits.

8. Our usual custom was to go in close to the shore in fleets of 50 to 60, heave our bait and then drift off, taking the fish with us. If we saw a boat from the shore catching mackerel, we would lee-bow them, that is, we would go close on to her, heave our bait and draw off the mackerel; the boat would then have to wait for another school of mackerel. This would often occur and in every case would spoil the catch of the boat.

9. That during the last two or three years the number of American vessels engaged in the mackerel-fishery in the gulf has not been so numerous as in previous years, owing, no doubt, to the fact that the mackerel have not, during these last two or three years, frequented our coasts in such numbers as in previous years. This year, however, the prospects are good for mackerel-fishing.

10. That about 200 of the American vessels get their bait on the Nova Scotian coast, and in my opinion, without the bait obtained there they could not carry on the fishing.

11. That the Americans also take large quantities of herring from our coasts, about 10,000 barrels from the Magdalen Islands a year, all of which would be caught close up to the shore. There are 40 American vessels engaged at Fortune Bay, in Newfoundland, in prosecuting the herring-fishery, averaging about 500 barrels per season per vessel, all of which are caught close to the shore. There is also a fleet of 20 American vessels that fish at Bay of Islands in the fall of the year, averaging 700 barrels per vessel per season, which are all caught well within the three-mile limit. Then there is also a fleet of 40 American vessels which fish off Grand Manan. They average 350 barrels of herring per vessel, which are all caught close to the shore.

12. That the mackerel on their arrival in the gulf first strike the Magdalen Islands, then across over to the lower Canadian shore, Seven Islands, and Bay Chaleurs, and then come down along the west shore, keeping close inshore. They then strike across to North Cape, in Prince Edward Island, and thence hugging the shore closely move along toward East Point.

13. That, in my opinion, if the Americans were prevented altogether from fishing within the three-mile limit, they would not frequent the gulf at all on account of the great risk they would run in getting a fare at all outside that limit.

DANIEL MCPHEE.

Sworn to at Souris, in Kings County, in Prince Edward Island, this twenty-sixth day of June, A. D. 1877, before me.

JAMES R. McLEAN,

J. P. for Kings County.

No. 29.

I, MALCOM MCFADYEN, of Murray Harbor, South, in Kings County, Prince Edward Island, merchant and fish dealer, make oath and say:

1. That for the last ten years I have been actively connected with the fishing business, and I have had some experience in it for a long time. One year I was myself fishing on the Labrador coast, and I have been nine years buying, curing, and trading in fish at Murray Harbor.

2. That out of this harbor there are about forty boats and six or seven schooners engaged in fishing. The number of boats has increased very much. The boats are now larger than they used to be, and are decked boats. The cause of the increase is that fishermen have prospered here during the last ten years. There is a class of people who go in for fishing and nothing else. They live better than those who go in for both farming and fishing, but fishing is a help to them all round.

3. That these boats carry on an average about four men each as crew; that would be clear of the men employed on shore, who here are about thirty in number.

4. That these forty boats catch, in the aggregate, about three thousand quintals of codfish and four thousand quintals of hake, in the season, on an average. Codfish are worth about three dollars and hake two dollars a quintal. There are about seven thousand pounds of sounds in these, the price of which varies from thirty-five cents to one dollar a pound. The oil amounts to about three thousand five hundred gallons, worth, all round, forty cents a gallon. The catch of mackerel here varies from three to six hundred barrels in the season. The fishermen do not go into mackerel-fishing so much as into cod-fishing. There are also a few herring taken on this shore for bait.

5. That the codfish are caught along the shore and on the Banks, principally on Fisherman's Bank. They are all caught in the Straits. The mackerel are caught along shore.

6. That of late years I should estimate the number of American vessels fishing in the Straits at about two hundred sail. They fish their mackerel principally along the shore, and the codfish on the Banks. There are not many of them cod-fishing here, they are mostly mackerel fishermen. Some of them make two trips to the Straits, transshipping the first trip at the Gut of Canso. I should average their mackerel catch in the Straits at about three hundred barrels to a vessel.

7. That the American fishermen do a very great injury to our boat-fishing. They come up among our boats, when the latter are getting mackerel, and throw large quantities of bait and glut the mackerel, so that the fish stop biting and the boats can get no more of them. This is what is called lee-bowing. The Americans also clean their fish on the grounds, and this practice does great harm. In cod-cleaning the offal is thrown overboard, and I believe the fish eat the offal and bones, and the water is poisoned around. At any rate, the fish are driven away from the grounds when the offal is thrown overboard. I should say the mackerel offal has the same effect, but there is not so much of it.

8. That fishermen are all opposed to the coming of the Americans, on account of the harm the latter do to the fishing. The coming of the Americans is looked upon as the end of the good boat-fishing for the season. They also injure the morals of the fishermen, as they have no regard for Sunday or any other day. They also sometimes come on shore and break and destroy many things about our villages and shores.

9. That the lobster-fishery is now a large business here. There are a number of lobster-preserving factories on this island now. They are caught along the shore in three or four fathoms of water, or about half a mile from the shore. I do not know that there are any Americans, except one in Souris, engaged in this business here at the present time, but there are a good many of them along the Nova Scotia shore. This fishery everywhere is all carried on and the lobsters caught close to the shore.

10. That a good many of the American cod-fishermen get bait at the Magdalen Islands and ice at Canso. They have not bait on their own

shores for this fishery, and are obliged to depend on our shores for their codfish-bait, so that their cod-fishery is dependent on our herring-fisheries for its existence. They go very extensively into the cod-fishery. They also get our herring, not only for bait but also to ship to Sweden and other parts of Europe. There were a lot of them at the Magdalens this spring getting herring for that purpose. They take the herring in seines and nets. The herring are caught right on the shore.

11. The seining at the Magdalens does a lot of harm, as there are such numbers of herring killed. The seines sometimes take up thousands of barrels, and only part of these can be cured. They are killed or smothered in the seines, and the seines are finally tripped and the dead fish thrown away.

12. That at the Labrador I have seen the Americans seining for cod-fish. They also trawl for them very extensively. This is a very destructive way of fishing. In the spring of the year the trawls catch up the mother fish before they spawn, and millions of fish are lost in this way. The young cod taken on the trawls are also thrown away, as being too small for keeping. Numbers of the fish also get killed on the trawls and get knocked about. These also are thrown away. We receive little or no benefit from these vessels in return for the injury they do us, as they do not trade here except for such things as they cannot get at home. We don't collect even anchorage dues from these vessels, although they get the benefit of our harbors and lights. They also get their wood and water on our coasts, without which they could not fish.

13. The value of the right of transshipment is a great deal to the Americans. It saves them a trip home, which would save them a month in the best of the fishing. That would represent a save in money of from five to eight hundred dollars a vessel. They can also refit here just as cheap as at home. It would generally be an advantage, as enabling them to get their fish into market early, and thus catch the good early markets. They transship to a large extent at Canso. Only for this right to transship the last trip to the gulf would be lost, as they would not be able to go home and return soon enough to make it.

14. That at this factory or stage we put up from one hundred and fifty to two hundred thousand cans of lobsters in the season, the net value of which is about twelve dollars and one-half a hundred. At retail they are sold for much more than that.

MALCOLM MACFADYEN.

Sworn to at Murray Harbor, in King's County, Prince Edward Island, this 30th day of July, A. D. 1877, before me, the erasures and interlineations opposite my initials having been first made.

SAMUEL PROWSE,

A Justice of the Peace for Prince Edward Island.

No. 30.

I, CHARLES W. DUNN, of Murray Harbor, in King's County, Prince Edward Island, fisherman, make oath and say:

1. That I have been engaged in fishing for about twenty-eight years, winter and summer, in both boats and vessels, having fished in the cod fishing on the Banks for about seven winters. I have also fished mackerel in this gulf with the Americans from the summer of 1868 till 1871, and also in the halibut fishery on these coasts.

2. That there are all of forty sail of boats engaged in fishing off this harbor, and there have been a number added to them in the last two years

since I have been here. These boats are decked boats, and carry crews of four and five men each.

3. That these boats are all engaged in cod and hake fishing, and do not go in for mackerel fishing except for bait. These fish are all caught along the coasts, some on this shore and some on the Nova Scotia shore.

4. That I was down here in the gulf mackerel fishing, in the schooner William T. Merchant, of Gloucester, United States, for one whole season—five months and four days. That was in 1868. We took 900 barrels of mackerel in her. She was sixty-seven tons burden, and carried fifteen hands.

5. That in 1869 I was in the Ada L. Harris, of the same port, fishing, for two months or about half the mackerel season, in the gulf. We took out 500 barrels of mackerel. She was registered at forty-eight tons, and carried twelve hands.

6. That in 1870 I was about two months and a half fishing in the gulf, in the Reunion, during which time we got 430 barrels of mackerel. She was seventy-four tons, and carried fifteen hands.

7. That in 1871 I was in the Rambler for eight weeks fishing in the gulf. We took out 280 barrels of mackerel. We came in the gulf late that season. She was sixty-three tons, and that time carried thirteen hands.

8. That fully three-quarters of the fish taken in these schooners were taken close to the shore, or within three miles along this island, Miscou, Bay Chaleur, the Magdalens, and other places on the British coasts. Taking the season through, the inshore fishing is the best. I believe that it would not be at all worth while to fit out for this gulf, if the vessels were not allowed to fish inshore.

9. That I was two seasons or parts of seasons seining on the American shore for mackerel. One of these seasons I was there for seven weeks, and we only got one hundred and twenty barrels. We then came down into this bay, at the end of the season, and caught two hundred and eighty barrels. The second year I was out there we did not do much. The American shore is not such good fishing ground as the gulf. On their shore the hookers have little or no chance, as the seiners have broken up the fishing.

10. That I have been cod-fishing for seven or eight winters on George's and the Grand Banks in American vessels. We used to trawl, and have taken two hundred and twenty thousand pounds of salt fish in three months. The bait we used to use were all herring brought from the Nova Scotia, Newfoundland, and other British shores. These fish are taken fresh and frozen, and kept in ice. There is no bait to be had on the American shores, except a few herring near Eastport, and some porgies, but those last are no good except a few for the George's fishing. All this fishing for codfish is entirely dependent on the Dominion and Newfoundland herring-fisheries, and without these herring the cod-fishing could not be carried on, and would have to be given up. The ice is got on the American shore first, and then is got on the Nova Scotia shore. There is a large fleet of American vessels engaged in the cod-fishing.

11. That there is also a fleet of some eighty or ninety sail of Americans trawling for halibut on these coasts. There are quantities of halibut caught at Boone Bay, right round Anticosti; up the Quebec River, near and above Seven Islands, up as far as Trinity Bay. These are all caught close to shore in three or four fathoms of water. At Anticosti we could often see the halibut on the bottom when we were trawling. This would be about two or three hundred yards from shore. I have

seen ten thousand halibut a day caught at Anticosti in water where we could see bottom. This halibut fishery is the best paying fishery that I have ever been in. I have made ninety dollars in twelve days as one of the hands at this fishery.

12. That the seining breaks up and destroys the fishing, as it breaks up the schools of mackerel and scares the fish. The seiners also take both big and small fish, and all sorts of fish, and they only save the good mackerel. The herring, small mackerel, and other fish are all killed in the seines, and these are thrown away. These fish all sink to the bottom and putrefy and hurt the bottom, the feeding-ground of the other fish, and I think it poisons the other fish to eat this rotton stuff. The seining has broken up and destroyed the fishing on the American shore, and that is the effect it always has. They break up and destroy the hooking with the seines. This has happened on the George's grounds.

13. That the years the cutters were round they interfered with the American fishing and spoilt catches. I was out then myself, and we used to have to keep a man always on the lookout, and then when we saw the cutter's smoke we had to clear out. Some of their vessels were taken by the cutters.

14. That the right to land here, transship their mackerel, and refit is a very great advantage to the Americans, as they save on an average three weeks each trip by not having to take their fish home in their own vessels. This would be equal to an additional trip for the season. Then they can buy provisions and refit cheaper here than they can at home. They can also watch and take advantage of the changes in the mackerel market. If a skipper has any fish he can telegraph on to his owner and can have the fish sold in the early market and at the early prices. The mackerel are also liable to get rusted and injured by being kept long in the holds of the vessels. This injury is avoided by landing the fish and sending them on in steamers without loss of time.

CHARLES W. DUNN.

Sworn to at Murray Harbor, in King's County, in Prince Edward Island, this 31st day of July, A. D. 1877, before me, the erasures and interlineations opposite my name having been first made.

MALCOM McFADYEN,

J. P. for King's County, Prince Edward Island.

No. 31.

I, JAMES HOWLETT, of Georgetown, in King's County, Prince Edward Island, fisherman, make oath and say:

1. That I have been engaged in fishing for fifteen years, in vessels belonging to the United States. I have fished all about Bay Chaleur, from Port Hood to Seven Islands, at the Magdalens, all along this island coast, and two years mackerel-fishing on the American shores, and many winters cod-fishing.

2. That I should say the American fleet in this gulf numbers three hundred and fifty to four hundred sail, for certain, each year. The number varies; last year there were few schooners in the bay.

3. That in the Affodite, an American schooner of about sixty-eight tons, and carrying fifteen hands, we landed two trips at Causo, and carried two home, making four in all, averaging two hundred and seventy-five barrels each trip.

4. That in the Alice G. Wanson I fished one season in this bay, and

we carried home four hundred barrels of mackerel. She was seventy tons measurement, and carried sixteen hands.

5. That one summer, in the *Energy*, a large schooner of one hundred tons, we took home four hundred and fifty barrels.

6. That I was in the *Glenwood* for the fall trip, or about half the season; in her we carried home two hundred and seventy five barrels. She was a schooner of about sixty-five tons, and carried fourteen or fifteen hands.

7. That I was in the *Rose Skerret*, fishing in this bay for the first trip of about two months, July and August, and we took home two hundred and five barrels. She was about seventy-five tons, and carried seventeen hands.

8. That I was one whole season in the *Pescadore*, fishing in the bay for two trips. We carried home in all five hundred and fifty barrels. She was about fifty-eight tons burden, and carried fourteen hands.

9. That I was in the *C. D. Oliver*, for two-thirds of the season, when we carried home two hundred and seventy-five barrels of mackerel.

10. That in my experience of fishing in the bay, we averaged, for the whole season, from five to six hundred barrels of mackerel each year.

11. That one season in the *John Somes*, we took home seven hundred barrels of mackerel. She was about sixty-five tons burden, and carried fifteen and sixteen hands.

12. That in the first part of the season, the fish caught in these vessels were mostly caught between West Point and North Cape of this island; in the latter part at North Cape, Magdalens, Port Hood, and some at Sydney.

13. That I was half of two seasons on the American shores, mackerel-fishing; two hundred and fifty barrels was the most we got. Most of the mackerel there are seined, and I think the seining prevents the hooking.

14. That there is a large fleet of American vessels engaged in the cod-fishing. All the western and Grand Bankers get their bait from the Newfoundland and Dominion shores. They also get their ice there too. The cod fishery is dependent on these herring fisheries for its existence, as without the herring you cannot get codfish.

15. That there is also a large halibut fishery off Newfoundland, Grand Banks, and the Nova Scotia shores. These use herring for bait, and other small fish, but they do not use so much herring as cod fishermen.

16. That the right of transshipment is of value to the Americans, in this way, that they can thereby save three weeks on the trip, which, in good years, would amount to about a trip saved. They can refit at pretty much the same rate as at home.

17. That I believe that trawling and seining are ruinous to fishing, as the trawls catch up the old mother codfish before they spawn. The seining does harm, as it catches big and small, and the small are never used; and when large catches are made there are quantities of fish killed in the seines—and these are lost. I have known vessels take two or three hundred barrels more than could be saved, and these had to be tripped out and went to the bottom.

JAMES HOWLETT.

Sworn to at Georgetown, in King's County, Prince Edward Island, this 31st day of July, A. D. 1877, before me.

DANIEL GORDON,
J. P. for Prince Edward Island.

No. 32.

I, JOHN GRAHAM, of Cavendish, in Queen's County, Prince Edward Island, fisherman, make oath and say:

1. That I have been engaged in fishing off this island, in boats, for about fifteen years, and am acquainted with the fishing grounds.

2. That there are fully forty boats along this beach without reckoning the harbor, and the number is increasing every year. The number of boats along here has doubled, if not trebled, in the last five years, and the boats are better now than then, being better modeled and better built.

3. That these beach boats carry, on an average, crews of three men each; in the harbors the boats carry average crews of five men each, that is, besides the stage men employed on shore, of whom there are a good number.

4. That the average catch of mackerel along this beach would be about one hundred barrels to the boat. The bulk of these fish, I should say three-fourths, are caught within one mile and one-half to two miles from the shore. In the fall, the harbor boats sometimes go further off.

5. That one reason for the increase in the number of boats is, that people can now ship away their own fish, even in small quantities, whereas, formerly, they had to sell to the dealers here for what the latter chose to give. We can always get the cash for the fish now, while for farm-produce and in other business we cannot. It is found to pay now, which is the great reason for going in for fishing. Fishermen handle a good deal of money which they could not get in any other way.

6. That the American fishermen come down here about the first of July, and stop all summer. Sometimes I have seen as many as one hundred and fifty sail of them from this stage at one time, all fishing close to the shore; they fish where the boats do. Latterly, they have been using seines; at one time last year (1876) I saw three of them seining off this shore. I look upon their seining as an injury to our fishing. There were not so many of them here last summer as in some former years, but there have been seventy sail of them off the shore at a time last year.

7. That the Americans often do harm to our fishing by coming in among the boats and taking away the fish. They come in near the shore and throw a lot of bait and then drift off to sea and the fish follow them. We never calculate on doing much for some days after we see the Americans coming inshore, as the fish get full of bait and will not bite. They come in among the boats which are getting fish and lee-bow them, thus causing the mackerel to leave the boats. I never want to see them coming round. After their fleet comes round we cannot do much with the boats. I think that throwing over so much bait, and also throwing the offal of so many fish overboard, injure the fishing.

8. That it is a great advantage to the Americans to be able to come here and fit out for fishing and transship their fish when they have them. They come into Charlottetown and fit out, and they often go into the same port to ship away their fish. They save enough time by having the right of transshipment, to make another voyage to the fishing grounds. The fish get poorer in look and in quality by being kept long in the holds of the vessels, and by being transshipped they are saved from this deterioration, and consequently command higher prices.

The fishermen are also enabled to take advantage of the fluctuations of the fish market, and catch good prices.

JOHN GRAHAM.

Sworn to at Cavendish, in Queen's County, Prince Edward Island, this 11th day of July, A. D. 1877, before me.

ALEX. M. MCNEILL, J. P.,
Commissioner for taking Affidavits for Queen's County.

No. 33.

I, JOHN R. McDONALD, of St. Margaret's, in King's County, in Prince Edward Island, farmer and fisherman, make oath and say :

1. That I have had a practical acquaintance with the fishing business for the last eighteen years, all in schooners, both belonging to this island and to the United States. I have fished out of Gloucester, in the United States, for seven years, and I know the gulf-fisheries well. I have been master of fishing schooners for the last eight years, excepting the present year (A. D. 1877).

2. That at the present time I am carrying on a fishing business at New London Harbor, in Queen's County, in said island. There are about one hundred and fifteen boats belonging to and fishing off the New London Harbor and beach at the present time, and I believe they are increasing. There are a lot of new boats fishing here now, and a lot of stages have been put up here during the past year. The reason I give for the increase in the number of boats, and the increased quantity of money invested in boat-fishing, is that, when the people carried on fishing on the coast in a small way, they found the business to pay, and then they went more into it, and the more boats they put into the business, the greater were their profits in proportion to the number of boats employed. It does not cost very much more to run ten boats fishing than it does to run six, because the stages and all the shore expense and outfit would be the same, and the only additional expense would be the actual cost of the new boats with their outfits, and the extra feed and wages of the men on board them, while the profits would be larger. In short, as far as my experience goes, I find the fishing to be a paying business, although some years are better than others.

3. That the boats are now much better built, better rigged and better equipped in every way than they were five years ago. People now take pride in their boats.

4. That the average crews of the boats are about four men to each boat, besides those employed on shore, who are employed at about the rate of four to six men to six boats.

5. That I should call one hundred and fifty barrels a fair average catch of mackerel per boat for the season, taking one year with another ; but less than that would pay well.

6. I should think that all the mackerel are caught within three miles of the shore. I found in vessels that I could do nothing more than three miles from the shore. Within the last three or four years none have been caught outside of three miles.

7. That I fished for eight years on board of island schooners in the gulf, as captain. I fished in the schooners Letty, Corsair, Octavia, George S. Fogg, Little Belle, belonging to this island.

8. That I went out fishing in the Corsair about eight years ago. She was of about forty tons burden, and carried a crew of twelve hands. She made two trips that season, mostly along the island shore, and

partly in Bay Chaleur. On board of her, that season, we caught about four hundred and fifty barrels of mackerel.

9. That the year after I was on board the Corsair I fished in the Octavia, a schooner of sixty-four tons burden, belonging to Charlotte-town. She carried seventeen hands, and we made three trips, two of which were along this island shore, and one up the Bay Chaleur. In the three trips we caught eight hundred and fifty barrels of mackerel. We did not go in for any other kind of fishing. In both those vessels nearly all the fish were caught inshore, about two miles and from that in being the best fishing. Fully two-thirds of our catches were within two miles of the shore, and nearly all within three miles of the shore.

10. That I fished on board the Letty for two years. She was a schooner of fifty-seven tons burden and carried sixteen hands. We fished altogether on the island coast, and the first year made two trips, and caught five hundred barrels of mackerel, nearly all of which were caught near the shore. The second year we fished in the same places, and caught about four hundred and ninety barrels of mackerel.

11. That the year after I was fishing in the Letty I went in the George S. Fogg, of this island, a schooner of one hundred and three tons burden, and having a crew of twenty-one men. We made two trips in her, and caught in the two trips about seven hundred and eighty barrels of mackerel. These were all caught along the island shore and Nova Scotia coast. Nearly all were caught within three miles of the shore.

12. That last year (1876), which was the worst year I ever knew, I was out in the Little Belle, of thirty-eight tons burden, and carrying twelve men. We only caught one hundred and eighty barrels that year. The fish were too close to the shore for schooners to do much.

13. That almost all the American fishermen fish close in to the shore of the different provinces of the Dominion, and I do not think the Americans would find it worth while to fit out for the gulf fishing if they could not fish near the shore. The year the cutters were about the Americans did not do very much, although they used to dodge the cutters and fish inshore.

14. That I fished on board of American schooners for about seven years in the gulf, and during those years we used to land from six hundred to one thousand barrels the season, averaging about eight hundred barrels. We used then to generally fish about the Magdalen Islands, and close in.

15. That the boat fishermen complain that the American schooners break up the schools of mackerel and injure the boat fishing. They throw so much bait that the fish get glutted and sink to the bottom; won't bite, and very often leave the grounds. The Americans also leebow the boats whenever they see the latter getting mackerel, and take the fish away, when there is no use for the boats to stop there any longer.

16. That the right to land at our ports and harbors, ship away their fish, and take in a new outfit without having to go home, is a very great advantage to the Americans. Outfits are cheaper here than in the United States, and labor also is cheaper, such as coopering. They save a great deal of time, as they can go in and send away their fish and take in a new outfit, and be back on the ground without losing much time, while if they had to go on to the States they would lose about a fortnight each trip, which would amount to a good trip saved in the summer. They can also watch the fish markets and ship away their fish as soon as they land, if the price is up, selling them "to arrive." The mackerel market is a very fluctuating one, so that it is a great advantage to be able to transship without delay. The fish also are getting worse the

longer they are kept in the holds of vessels. The pickle is apt to sour or run off, in which latter case the fish rust, and they get knocked about by the tossing of the ship, and they thus become of an inferior quality by the time they get to market, and command smaller prices.

17. That I have fished for herring at the Magdalen Islands for four or five springs, and there has always been a large number of American schooners fishing herring there. They seine the herring, catching large quantities. They send a great many of these to Sweden and Norway and the West Indies, besides to the United States. At the Magdalen Islands they fish right inshore; in fact they drag the seines to the shore.

18. That in my opinion the American plan of seining is injurious to the mackerel and other fishing, as they only keep the good large fish, and throw the small ones and the other kinds of fish overboard, and they are destroyed.

19. That the mackerel strike about the Magdalen Islands first in the spring, and then they strike down toward Bay Chaleur, and then to North Cape of this island. At the Magdalen Islands they are caught in nets in the spring, and a great many Americans catch them there. The Americans know all about the way the fish strike, and they follow them as the fish go from place to place.

JOHN R. McDONALD.

Sworn to at French River, in New London, in Queen's County, in Prince Edward Island, this 12th day of July, A. D. 1877, before me.

JOHN SHARPE,
Justice of the Peace.

No. 34.

I, COLIN MCKENZIE, of French River, in New London, Queen's County, Prince Edward Island, farmer and fisherman, make oath and say.

1. That I have been engaged in fishing, for twelve years, fishing off the north side of this island, in both boats and schooners, and have fished herring in the spring at the Magdalen Islands, and also on the north coast of Newfoundland. I have been dealing in fish, and had a good opportunity to see the fishing there.

2. That there are over one hundred boats fishing out of this harbor, and off the shores in this neighborhood. Four years ago there were not half so many as there are now, and the number is still increasing fast. The boats are of a superior quality in every respect to what they were four years ago. The capital invested in boats has more than doubled within the same time. There are now about twenty fishing stages and more built for carrying on the fishing business, and six years ago there were only one or two.

3. That the boats carry crews of four men each, on an average, and there are three men to every four boats employed as stage men; that is, not reckoning the coopers and others employed on shore. The boats also furnish employment to the vessels in the carrying trade during the dull freight season. There is also a lot of money put in circulation through the country, which creates a trade for the country about the stages.

4. That the boats, on an average, catch about one hundred barrels of mackerel each during the season, worth about one thousand dollars. As soon as the mackerel are shipped we can draw and get the cash for them.

5. That I should say that one reason the boats are increasing in number is that good fishermen can now be obtained. Another reason is

that there is now a surplus population growing up, who have no land, and take to fishing for employment. The chief reason for the increase is that the business is found to pay.

6. That the boats along this part of the island catch large quantities of codfish before the mackerel season comes on, but the principal part of the boats leave off cod-fishing when the mackerel come. If followed up here, the cod-fishing would be valuable.

7. That there are considerable quantities of herring caught about here in the spring, and if people went into herring-fishing they might get as many herring as they wanted. We get herring also down at the Magdalen Islands. The herring are used for bait during the mackerel season, and also for home use. Each boat, on an average, wants about twenty barrels of herring for bait, during the season.

8. That nearly all the mackerel and all the herring taken by the boats are caught inshore; that is, within three miles of the coast line. About half the codfish are caught within the same distance from the shore.

9. That I have fished in schooners belonging to this island for several seasons. That I fished in a schooner called the Garland about twelve years ago, a schooner of about fifty tons burden and carrying eight hands. We fished in her off this island for the whole season, and got at least three hundred barrels of mackerel. Most of these fish were caught inshore.

10. That I fished for a season in the schooner Hannah, of this island, also of about fifty tons burden and carrying eight hands. We fished off this island; that was about eight years ago. We caught about three hundred barrels of mackerel in her, the greater part of which were caught close to the shore.

11. That I fished, about seven years ago, for a couple of seasons on board the Minnie R., carrying nine hands. In her we fished along the island shore and up the Bay Chaleur, and caught about two hundred and eighty barrels each year, but we did not fit out till nearly the first of August. In all these vessels we traded along through the spring, and did not fit out for fishing till late. Every year we fished I noticed that we used to fish closer to the shore, which I consider shows the mackerel are working closer to the land.

12. That during the seasons I was fishing in schooners there were large fleets of American fishermen fishing in the gulf. They used mostly to fish within three miles of the shore, especially during the last two years I was out. I should say that at least two-thirds of their catch of mackerel were caught inshore. I have seen some of their vessels take their entire loads close inshore, never going off.

13. That, taking one year with another, for the last eight or ten years there have been fleets of American schooners fishing in this gulf, of about four hundred sail each year. For the last two years they have not been so many; the reason for that is that they have had good fishing on their own shores in those two years, which they do not often have. During the last two years I should not think there were more than three hundred of them in the bay.

14. That the American schooners often interfere with the boats, by coming in, throwing bait, and drifting away, taking the fish with them. They, in fact, break up the boat-fishing to some extent. Their coming is looked upon as an injury to the boats; fishermen would sooner not see them coming. When the boats are lying at anchor getting fish, the vessels drift down and lee-bow the boats, spoiling their fishing for that time.

15. That I was down at the Magdalen Islands some years ago, herring

fishing, and there were a hundred sail of American fishing-vessels getting herring there. They would take on an average eight hundred barrels each; they ship them away to the West Indies and to other places. The herring there are all caught in the bays and harbors, and are caught with seines, which they often drag to shore. That fishery is valuable to the Americans, as they will get large returns for small outlay, and many of their cod fishermen take their bait at the Magdalen Islands.

16. That I have been getting herring at Newfoundland and have seen large numbers of American vessels fishing there. They fish there all winter. They freeze large quantities of the herring caught there for bait for their George's fishing-fleet; in fact, Newfoundland supplies nearly all the bait for their George's fishing.

17. That in the spring nearly all the mackerel coming here, come by Cape North and through the Gut of Canso, and then they strike the Magdalenes; and the herring come in the same way. From the Magdalenes the herring and mackerel strike up for Bay Chaleurs and for the coasts of this island and for Anticosti, and toward fall both mackerel and herring work back again in the opposite direction. The American fishermen know all about this habit of the fish, and follow them as they swim, and catch them at the different shores.

18. That I am of opinion that, for some years back, it would not pay the schooners to fit out for the gulf fishing if they were prohibited from fishing within three miles of the shore, that is, for herring and mackerel.

19. That when the cutters were about they used to frighten off the American schooners to a large extent. I have seen them here and in the Bay Chaleurs have to clear out when the cutter was coming, even when they were getting good fishing. The reason they were not kept off altogether was that there were not enough cutters to watch the coast.

20. That I consider the right to land here, transship, and refit is very valuable to the Americans, as they would save a fortnight each trip, right in the heart of the fishing season, which would amount, in a great many cases, to a trip saved in the season. They are enabled, owing to having the right to transship, to take advantage of favorable prices in the fish-market, which is very fluctuating. Besides that, by transshipping, they can get their fish into market in better order than if they kept them on board their own vessels. The fish, by being kept in the holds of the vessels, are apt to lose pickle, and rust, and mackerel are fish that need repacking.

COLIN MCKENZIE.

Sworn to at French River, in New London, in Prince Edward Island, this 12th day of July, A. D. 1877, before me.

JOHN SHARPE,
Justice of the Peace.

No. 35.

I, ALPHONSO GILMAN, of Malpeque, in Prince County, Prince Edward Island, fisherman, make oath and say:

1. That I have been following the fishing for about seventeen years in both boats and schooners; that I have been engaged in fishing out of this island about six years, and out of the United States the rest of the time in schooners.

2. That out of Malpeque Harbor and on the shore there are about fifty boats of all sizes engaged in fishing, and the number has increased considerably during the last two years. These boats carry crews on an average of about four men to a boat; that the boats engaged in cod-

fishing average about forty quintals a boat for the season, and the average catch of each boat engaged in mackerel-fishing, not reckoning dories, would, along here, be about thirty barrels.

3. That these fish caught by the boats are caught not further than three miles from the shore.

4. That, taking one year with another, there will be seven or eight hundred schooners engaged every year in fishing in the bay, of which about six hundred sail are Americans. These schooners generally fish around the Magdalen Islands, in the Bay Chaleur, in the bend of this island, around the East Point, around Margaree. In the bend of this island these schooners generally fish close inshore, and at the other places from ten miles out to the shore. Within the past ten years the greater part, over half of the mackerel taken by schooners, would be taken within three miles of the shore.

5. That I have fished in about twenty schooners, both island and American, and these schooners would average three hundred barrels for the season.

6. That the right to refit and transship here saves time to the Americans, as they can save about three weeks each trip by being able to land here and transship without having to take their fish home in their own vessels, and that would amount to a trip saved during the season. There is the further advantage that, by transshipping, they are able to take advantage of the markets for fish, which is a very variable market.

7. That when the mackerel first come in to the bay they generally come up toward Bay Chaleur, Gaspé, and round there, passing the Magdalen Islands on their way. It is up there that the American fleet generally goes first to catch fish.

8. That I am an American citizen, and have fished for years out of Boston, Gloucester, Camden, Frankfort, and Belfast, in the United States.

ALPHONSO GILMAN.

Sworn to at Malpeque, in Prince County, Prince Edward Island, this 13th day of July, A. D. 1877, before me.

H. S. MARSHALL,

Justice of the Peace for Prince County, Prince Edward Island.

No. 36.

In the matter of the Fisheries Commission at Halifax under the Treaty of Washington.

I, E. MARSHALL, of the island of Anticosti, county of Saguenay, Province of Quebec, fisherman, make oath and say as follows:

Was born in the State of Maine, United States; have carried on the shore and vessel mackerel-fishery for about thirty years, consecutively, till 1870; twenty-two years I spent in the shore and vessel mackerel-fishery at Prince Edward Island; for six seasons previous was master of American fishing vessels in the Gulf of St. Lawrence, and from 1867 to 1870 was master of the S. G. Marshall, which was seized for supposed illegal fishing inshore in Gaspé Bay. The names of the vessels of which I was master were the Orelia, of C. C. Gazel, of Alexandria, Va.; Oasis, of Ingham, Mass.; Chance, of C. C. Duroc, of Boston (a seining vessel); and the S. G. Marshall, of Prince Edward Island.

1. The fishing by American schooners was very extensive from 1852 to '70. During that period the number of American vessels which have

visited the shores of the Gulf of St. Lawrence for fishing purposes, yearly, amounted from 300 to 500 sail. This I have seen with my own eyes. Each vessel having an average of 12 men for a crew. All these were mackerel-fishing. The places where the Americans fished most during that period were on the shores of Cape Breton, Prince Edward Island, New Brunswick, and on the shores of Bay of Chaleur, from Port Daniel to Dalhousie, and east, from Port Daniel to Bonaventure Island, in Gaspé Bay, and on the south shore of Gaspé, from Cape Rozier to Matane, and on the north shore from Groisie to Goodbout River. I have fished myself nearly every year in these places, and I never missed my voyage.

2. Each of these vessels has made good fares every season, and some of them have made two trips of mackerel. Each of these vessels has made yearly a voyage of about 400 barrels.

3. The Americans catch their mackerel with seines and hand lines.

4. My opinion is that codfish gurry should not be allowed to be thrown overboard on any fishing ground around the shores, because it injures the small fish and drives away the large fish. This is my experience. For instance, if we throw codfish gurry on a fishing ground in the night, we could not find a fish there in the morning.

5. Mackerel caught by the Americans during the period mentioned above, have all been taken inshore, with the exception of a few barrels. The mackerel which I caught myself were all taken inshore.

6. The inshore fishery is by far the most valuable for all kinds of fish. In fact there are only two places where fish are taken in any quantity outside; the Orphan's and Bradley Banks. But the Americans don't resort there.

7. When American vessels come to fish among the boats, they entice all the mackerel away; it is my experience; I have enticed mackerel away from the boats myself often. This is done by the Americans whenever they get the chance.

8. Most of the Americans are supplied with either purse or hauling seines. The hauling seines have been in use for the last forty years, and the purse seines for mackerel, for about fifteen years.

9. The fishing with hauling seines is all practiced from the shores, and the purse seine in deep and shoal water.

10. Within the last five or six years most of the mackerel are caught in the gulf with the seines.

11. The use of the hauling seine has been mostly practiced on our shores from Port Hood to Cape Chat, on the south shore, and Goodbout to Seven Islands, on the north shore. I have practiced seining for three years from Gaspé Basin to Goodbout and Matane, and I have done well. In eleven days I stocked \$7,000 in Gaspé Basin, and I have seen at Goodbout, about twenty-three years ago, two American vessels loaded in one haul of the seine. The purse seines are mostly used now for mackerel.

12. I believe that the practice of seining is injurious to all kinds of fish, more especially to mackerel, because it destroys small and large fish.

13. The bait that the Americans use for taking cod and halibut, is all caught inshore or bought from the inhabitants at Anticosti and the north and south shores. Bait is taken with nets and seines.

14. Codfish, haddock, halibut, and pollock, are caught by American fishermen in inshore waters. And the same fish are also caught by the Canadian fishermen inshore.

15. The herring are all taken inshore, and is an important fishery. Four hundred barrels have been taken by the Americans at Fox Bay

this spring. They take herring for bait and for sale in their own and foreign markets.

16. On an average the Canadian mackerel are larger than the American.

17. The principal breeding and feeding grounds of mackerel are at Magdalen Islands, P. E. Island, Bay Chaleur, and Gaspé Bay. Mackerel feed on lance, herring, shrimps, and other marine animals floating in or about the surface of the water inshore.

18. I consider it a great advantage to American fishermen frequenting Canadian waters to be allowed to land, dry their nets, and cure their fish.

19. The privilege granted to the American fishermen by the Treaty of Washington, to be allowed to transship their cargoes, is of the greatest advantage to them, in this respect, that it enables them to keep on the fishing grounds, and to double and triple their fares.

20. The American fishermen could not carry on the fishery of cod and halibut if they were not allowed to catch bait inshore or to buy it from the inhabitants. If they buy it instead of catching it, it is because they save time and find it more profitable.

21. I consider it a great advantage to Americans to be allowed to resort to Canadian inshores for ice. Not later than last week an American schooner fishing halibut here, lost her fare by not having ice.

22. The privilege of fishing in American waters is of no advantage to us. I never knew of any vessel from here ever resorting there to fish.

23. Fishing by Americans in Canadian waters injures their fisheries. Let us suppose for an instant that Gaspé Bay was full of mackerel and 50 sail of vessels come in and fish one day, and you could not find a fish there next day; that is my experience.

E. MARSHALL.

Sworn to the best of his knowledge, information, and belief, at Anticosti, county of Saguenay, Province of Quebec, Dominion of Canada, this 23d day of July, 1877, before me.

N. LAVOIE,

Justice of the Peace, Province of Quebec.

No. 37.

DOMINION OF CANADA,
Province of Nova Scotia :

In the matter of the Fisheries Commission at Halifax under the Treaty of Washington.

I, JAMES A. NICKERSON, of Margaret's Bay, in county of Halifax, Province of Nova Scotia, master mariner, make oath and say as follows :

1. I have been engaged nearly all my life, either directly or indirectly, in the fishing business. For about eight years I was engaged in the mackerel fisheries and commanded the vessel. Two of the years were immediately before the Reciprocity Treaty and the other six were during its continuance.

2. My vessel, the *Argo*, was about sixty tons burthen, and my average catch per season was eight hundred barrels.

3. I fished along the northern and eastern coast of Nova Scotia and Cape Breton and Prince Edward Island, and followed up to Bay of Gaspé and the Bay de Chaleur.

4. My best catches were taken off the north coast of Cape Breton, from Shittegan to Hanley Island, Port Hood, and I never caught any of

the fish to speak of beyond three miles from the shore. I am certain and positively swear that fully nine-tenths, and I believe more than that proportion of my entire catch was taken within three miles of the shore; the nearer to the shore I could get the better it would be for catching fish. One reason of that is that the mackerel keep close inshore to get the fishes they feed on, and these little fishes keep in the eddies of the tide quite close to the shore.

5. If I had been prevented from catching fish within these three miles I am satisfied I could not have got any fish at all.

6. Along Prince Edward Island the fishermen sometimes get good catches more than three miles from the shores. This is caused by the large fleets of vessels who only fish when the wind is off shore, drawing the schools of mackerel out into the gulf by throwing bait while fishing and drifting off from the land. It is necessary, however, for the fishing vessels to go close inshore before they can raise the mackerel and to draw them off. If the fishing vessels were kept out of the three-miles belt or limit the same result would follow as off Cape Breton; no mackerel would be taken.

6. Later on in the season the fishing fleet, by constantly throwing bait and drawing the mackerel from the shore, manage to get the fish in deeper water, and then, sometimes, catches are made at long distances from the shore.

7. In Bay de Chaleur catches of mackerel are sometimes made or taken more than three miles from shore, but this is the result of their being drawn off shore by the fleet fishing, the same as off the other coasts I have spoken of.

8. The American fishing fleet frequented the gulf in great numbers during the years I fished, but their numbers varied greatly, sometimes numbering five hundred and sometimes one thousand.

9. These American fishermen got their catches in the same places we did. They took the fish close in to the shore; that is, by far the larger proportion of them; and the opinion of the American fishermen was universal that, if they were excluded from fishing within these three miles off the shore, they might as well at once abandon the fishery.

10. The fishing was principally carried on by hook and line, but since the Treaty of Washington Americans have used, to a considerable extent, purse-seines to catch the mackerel.

11. I am satisfied that the fishing grounds are seriously injured by the American fishing fleet throwing over the offal from the mackerel when cleaning them; and I am acquainted with localities where the fishing was temporarily destroyed from this cause. Boat fishermen never throw over the offal; they carry it on shore with them.

12. I was one of the officers of the Sweepstake, one of the Canadian marine-police cruisers, one year—the year 1869—and of the S. G. Marshall during the years 1870 and 1871. The S. G. Marshall was another of these cruisers. Our duties were to enforce the law preventing American fishing vessels from fishing along the inshores. The two first years our station for cruising lay between Picton and St. Paul's Island, and the last year from Shediac to Gaspé, including the Bay de Chaleur. My experience was that the Americans constantly endeavored to get into the prohibited ground to fish. The first few weeks we commenced cruising we were stationed at the Gut of Canso, and we boarded all the American vessels that passed through, and warned them not to fish within three miles of the shore on pain of being seized and forfeited. Notwithstanding that warning, they kept continually creeping in, and we eventually seized the A. H. Wanson, while fishing within three miles

of the north shore of Cape Breton. At that time there were at least fifty American fishing vessels fishing at the same place, and within three miles of the shore, but we could only seize one. The others left for home almost immediately, saying it was useless to prosecute the fishing unless they could do so within three miles of the shore.

13. During the first two years we were cruising we were constantly finding them fishing within three miles of the shore. They could not raise the fish outside and were obliged to come in. We kept constantly warning them, but they as constantly and persistently kept fishing inside the limits and close to the shore. The last year (1871) when cruising between Shediac and Gaspé, we did not see many of them violate the law by coming within the limits, but when I ran over to Prince Edward Island I saw great numbers of them fishing within three miles of the shore, as many as thirty at one time. At that time they were allowed by the island government to fish there, as I understood, but I had no authority to interfere with them.

14. The experience gained by me during these years when I was engaged in these cruisers, and my own previous knowledge, gained from years of practical experience in the business, convinces me, beyond a doubt, and I have no hesitation in stating it under oath as my firm, deliberate, conviction, that if the American fishermen were prohibited or could be strictly prevented from fishing within three miles of the shore, they would entirely abandon the British-American waters altogether, so far as mackerel are concerned.

15. The inshore fisheries are of so much more greater value than the outshore or deep-sea fisheries, that the latter would be utterly useless by themselves and without participation in the inshore fishery.

16. The Americans do use the purse-seines for catching mackerel on our coasts, and their use has the effect of driving the fish into deep water and away from the ordinary fishing grounds. I am not aware that they have been used extensively; my opinion is that they have not been.

17. I am aware that the American fishermen buy large quantities of bait all along the coasts of Nova Scotia and Cape Breton. I cannot say whether they catch it to any extent themselves. Without this bait they could not carry on the cod-fishery at all. When I speak of not being able to say whether they catch bait, I wish to confine that to the herrings. I am aware that they fish for and catch squid in Canseau, Guysboro, and along the eastern coast of Cape Breton in considerable quantities. I have seen them catching these squid every time I have been along the coast in the squid season. These squid are among the very best bait for codfish, far better than herring. They are taken close into the shore, sometimes up against the rocks. They would prefer buying the squid to catching them if they could buy them, but they cannot, because the people do not catch them to any extent. Squid are taken with a jig; they are not taken in nets.

18. Since the Washington Treaty, the American cod-fishers have been able to get their supplies for the cod-fishery, besides their bait and ice, along our coasts, and the consequence is there has been a marked increase, I would say fifty per cent., of these American cod fishers. Being able to obtain bait and ice so near and so easily, they have their trawls extending from Cape Sable to Cape North, in Cape Breton, and a consequence is, in my opinion, that the best fish are prevented coming inshore, and are lost to our shore fishermen. Without being able to get the bait, they could not do this.

19. The herring fishery is entirely an inshore fishery. None are taken outside. It extends round the entire coasts of Nova Scotia, New Bruns-

wick, Prince Edward Island, and Lower Canada, and are chiefly taken by Dominion fishermen, and used as bait, or sold as such to the Americans.

20. The food of the mackerel is various, depending upon the season. A small fish called a shrimp, and another called brit, and small herring, the season's spawn, are the food they generally feed on. These small fish are found in the tide-rips, in the small bays, and off from points, but close to shore, within half or quarter of a mile from shore or less. That is where the mackerel are first found, after rising from spawning. They feed there for a time, until they fatten, and then they begin to move farther off from shore, and, after getting fat, move southward again. The mackerel breed along the coasts and in the bays of Nova Scotia and New Brunswick and Quebec. They go into shoal water to spawn, unless disturbed.

21. The privilege of transshipping their fish is a very valuable one to American fishermen, because it saves so much of their time at the very season when it is most valuable. In this way they are enabled to make an extra trip at least, and some of the more fortunate two trips, and, consequently, make very much larger catches. Without this privilege I don't believe many of the Americans would prosecute the mackerel fishery on our coast. * * * I form this belief from my intercourse with the American fishermen themselves.

22. The privilege of fishing in the American waters is of no use or benefit to Canadian fishermen.

28. United States fishermen coming into our inshores professedly for fishing purposes, take advantage of it to trade with the inhabitants, and sell them large quantities of smuggled goods from the United States. This is quite prevalent.

29. I have been for the past four weeks ill from the effects of a tumor which I have had removed from my throat, and am still in the doctor's hands and unable with safety to move about much.

JAS. A. NICKERSON.

Sworn to at Halifax, in the Province of Nova Scotia, this — day of July, A. D. 1877, before me.

WM. ACKHURST, J. P.

No. 38.

In the matter of the Fisheries Commission at Halifax under the Treaty of Washington.

I, JOHN L. INGRAHAM, of North Sydney, in the county of Cape Breton, in the Province of Nova Scotia, fish merchant, make oath and say as follows :

1. I have been engaged in the business of fish merchant during the past twenty years, and am at present so engaged, and am well acquainted with Canadian fishermen and American fishermen in this locality, also with the buying and selling of fish, bait, ice, and fishermen's supplies.

2. I have seen at one time two hundred American fishing vessels in this harbor. In the summer of eighteen hundred and seventy-six I have seen as many as thirty at one time. In these vessels there are from ten to fifteen men each.

3. These vessels fish often within one-half mile of the coast, north and east of Cape Breton, and all around.

3. They take from one hundred to five hundred barrels of mackerel

each ; some take from one hundred to one thousand quintals of codfish. This amount they take each trip. They get them around the shore, on Grand Bank, and wherever they can. The mackerel men make two trips, and those catching codfish make an average of at least two trips, some making three trips.

4. I have been well acquainted, during the past 20 years, with the amount of fish taken by vessels around this locality, and have found that the amount varies, being sometimes good for two or three years, poor for two or three years, and again good for another two or three ; they have been rather poor for the last two or three years. This year the mackerel have been reported plenty east of Cape Breton, and will probably be plenty again for a number of years.

5. The fishing is mostly done with hooks and trawls, the Americans trawling in deeper water than Canadian fishermen.

6. The American heavy trawling destroys the mother fish. They catch the larger fish, and often throw over any small ones taken, thus injuring the fisheries.

7. During and before the Reciprocity Treaty of eighteen hundred and fifty-four the American fishermen fished close to the shore, following the fish close in and wherever they could take them. Since the Treaty of Washington, they come along the shore, fish close in, within three miles of the coast. When our armed vessels come, they leave ; and when the armed vessels go away, they return.

8. The inshore fishing is, in my opinion, of more value than the fishing outside, as the fish make in towards the shore, and if the Americans could not come in and get bait, and ice to keep their bait, the outside fishing would be of no benefit to them whatever, the privilege of fishing and purchasing bait, purchasing ice and supplies being invaluable.

9. The American fishermen use seines in deep water and also on the shore, and Canadian fishermen complain that by these seines they take great quantities before they can get inshore, and break up the schools of fish.

10. The Americans get all their bait within three miles of the shore, in the bays, creeks, and harbors, by fishing for it with hook and line, and with nets. They also purchase large quantities, because, they say, it is more convenient to do so at times.

11. The American fishermen, to my knowledge, take codfish and haddock inshore by trawling and hooking them, and Canadians in the same way.

12. Almost all herring fishing is done inshore, and the Americans catch them for bait, and they often sell herring thus caught. This I know well, having purchased herring from them all along the coast.

13. The Americans catch very large quantities of mackerel, and I have often heard American masters say that our mackerel is much superior to that caught in American waters, being larger and fatter.

14. I have been informed by American fishermen that the mackerel feed inshore and places where the water is shoal, and I have known American vessels catch a cargo of over 300 barrels of mackerel in a week within five miles of this harbor, and I know of no reason why it may not be done again within the next eight years. The right of transshipping at such a time would be of great value, as also the right to land and dry their nets.

15. The right of taking bait in our bays, creeks, and harbors is, in my opinion, invaluable, for without this privilege they would be unable to prosecute the fisheries.

16. American fishermen purchase bait at times, because, they say,

it is more profitable for them to do so. I have sold them large quantities of ice to pack their bait—from 10 to 12 tons per vessel each fishing trip—without which they could not keep their bait. They take about two tons at one time, and frequently return for more ice and bait in order to complete the trip.

17. I sold yesterday two American fishermen ice to pack their bait. They also buy flour, beef, oil, and molasses when they run short of stock taken from home.

18. I have been engaged in the buying and selling of fish for not less than twenty years, and am acquainted with many Canadian and American fishermen, and I have never known or heard of any Canadian fishing vessel fishing in American waters, and do not know of any practical advantage that would arise from doing so.

19. If American fishermen were excluded fish would undoubtedly be more plentiful. There would be more Canadian vessels employed not having to compete with American fisherman, and I also believe that if American fishermen were totally excluded from our markets and from fishing in our waters these markets of our own would afford sufficient inducement to carry on fishing extensively and prosperously by our own people.

20. I believe that any diminution in the mackerel trade will not be of long continuance, and know of no reason why it may not be better than it has ever been.

21. American fishermen come around the southern and eastern coast of Cape Breton by dozens through the Canal and Bras d'Or Lake and wherever it suits them.

22. From information I have received from masters of Canadian and American vessels I have been led to believe that there have been, year after year, a thousand American vessels fishing in Canadian waters, the number of which I have no information may have been as great.

JOHN L. INGRAHAM.

Sworn at North Sydney, in the county of Cape Breton, in the Province of Nova Scotia, this 18th day of July, A D. 1877, before me,

W. H. MORSE,

J. P. for the County of Cape Breton.

No. 39.

I, JOHN J. MCPHEE, of Big Pond, Township number forty-five in Kings County, Prince Edward Island, fisherman and fish-stage owner, make oath and say:

1. That I have been engaged in fishing or carrying on the fishing business for twenty odd years, and I am carrying the business at a stage on the north side of this part of this island at the present time. I have fished in both boats and schooners, but chiefly in schooners, both American and island. I have fished all in this gulf, except some deep-sea cod-fishing on the George's Banks, and I am acquainted with the fishing-grounds of the gulf very well.

2. That there are about forty boats engaged in fishing between the East Point and my stage, a distance of about fifteen miles. In that distance there are no harbors, and the boats have to be beached. The number of boats has increased a good deal since last year. The reason for the increase in the boat-fishing is that the men from here, who used to fish on the American shore, found that it did not pay, and they came home to fish on the island shores.

3. That these boats take crews of from two to four men each, and average about three men each. That is clear of the men employed on shore to carry on the business.

4. That the boats get as many herring in the spring as they want for mackerel-bait during the summer, and if the people choose to go into the business, they could get a great many. Last year my boats and dories averaged fifty quintals of cod and hake. The boats also get on an average, on that side, about fifty barrels of mackerel in the season. These fish are all caught within three miles of the shore, that being the good fishing ground.

5. That I was out fishing in several island schooners, in the *Jane*, *Margaret*, in one Nova Scotian vessel, the *Tyro*, and some other island vessels. In the *Jane* we got about two hundred and twenty barrels of mackerel. Most of these were taken in on the shore, very few of them were taken in deep water. In the *Margaret* we were cod-fishing right off this shore; the fish taken in her were caught within three miles of the shore. In the *Tyro*, a small, little vessel, we took about two hundred and twenty barrels of mackerel, all of which were caught near the shore, round the coast.

6. That I fished for two years in the bay in American vessels, one year in the *Two-forty* and one year in the *G. G. Kidder*. In the *Two-forty* we took nine hundred and ninety barrels of mackerel. She was a schooner of sixty seven tons burden, and carried 15 hands. Of these fish about one hundred and fifty barrels were caught in deep water, more than three miles from the shore; the rest were taken close to shore, within three miles of this island—the New Brunswick, Nova Scotian, and Magdalen Islands shores.

7. That in the *G. G. Kidder*, a schooner of about the same size as the other, we took three hundred and sixty-six or seventy barrels of mackerel; most of these fish were taken close in round the shores. We took very few in deep water.

8. That I had been cod-fishing in deep water off the American shore. There are over a thousand American vessels engaged in this fishery. They get the main part of the bait they use at Newfoundland, round the Nova Scotia shore, and at the Magdalen Islands. The cod-fishery there is dependent on these herring fisheries, and would be a failure if these herring could not be taken. They also get supplies of ice on our shores.

9. That for the last ten years there has been an American fleet of fishing-schooners, on an average, of over five hundred sail in this gulf fishing. Some years there are more and some years less. Last year there were not a great many; the number varies. There are a lot of Americans coming down here this year; this season there are a number of seiners down here, and they do a lot of harm.

10. That the American fishermen clean the fish on the grounds, and throw the dirt and offal overboard. This does a lot of harm to the fishing. The fish eat up this dirt or gurry, and this sickens them, and I believe kills the fish. When this is thrown overboard the fish stop biting and cannot be caught. I have always seen them stop biting when we threw the offal overboard. This hurts the boat-fishing, as they have to stop on the ground; the schooners can leave and go to other places. We fishermen look upon this as a very serious injury to us.

11. That the schooners also do a great deal of injury to the boat-fishing by lee-bowing the boats. They come up around the boats, throw a lot of bait and drift off, drawing the fish after them. They do this purposely. It was done in the American vessels in which I fished myself.

12. That the right to land here, transship their fish, and refit, is a very great boon to the Americans. The schooners save, I should say, about twenty days by being able to land their fish here instead of going home. They take a good while to go home, whereas they can land in our ports with very little loss of time. They can also fit out in our ports cheaper than they can at home.

13. That the Americans are now beginning to seine here, and that ought to be stopped; it is a very great injury to the fishing. I believe it has spoiled the fishing on the American shore. Seining hurts the fishing, as it breaks up the schools, scares them off the shore, and large quantities of fish are killed. They take all sorts of fish, and they throw away everything except the mackerel. They also take small mackerel, and these are killed in the seines and thrown away.

JOHN J. MCPHEE.

Sworn to at Black Bush, in King's County, Prince Edward Island, this 26th day of July, A. D. 1877, before me.

JAMES MACDONALD.

Justice of the Peace for King's County.

No. 40. .

I, JAMES MCDONALD, of Chepstow, in township number forty-five, in King's County, Prince Edward Island, farmer and fisherman, make oath and say :

1. That I have been engaged, as boy and man, in fishing for forty years past, in both boats and schooners, the schooners being both American and island vessels. I fished four years in island schooners and three years in American. I have fished all round this island, down at the Magdalens, up west, in the Bay Chaleur, and herring-fishing in the winter at Newfoundland.

2. That, including boats and dories, there are engaged in the fishery from Murray Harbor to East Point, on the south side of this island, from three hundred to three hundred and fifty boats. The number is increasing fast every year; they have doubled in number in the last three years, and are now increasing fast.

3. That the boats increase because there is a demand for fish, and fishing pays better than any other work that I know. Fish are ready-money articles, and we can get cash for them any day, and we cannot get it for anything else. The fishing puts a lot of money in circulation in the country, which in itself is a great advantage.

4. That the boats, including dories, take, on an average, two to three men each, the dories generally taking two.

5. That the boats get as many herring in the spring as they want for bait. The boats use from ten to twenty barrels each during the season for mackerel and cod fish bait. The boats catch some two and three hundred quintals of cod-fish and hake during the season, and some less. The average would be about two hundred quintals, which produce a large quantity of sounds and oil. The sounds of the hake are worth nearly twice as much as the fish themselves without the sounds. Some of the boats get, on this side, forty barrels of mackerel and more. The average catch would be thirty-five barrels to a boat. We go in principally for cod-fishing here.

6. That nearly all the herring caught are taken close inshore. About half the codfish are taken near the shore—that is, within three miles. There might be one quarter of the mackerel taken by boats here caught

more than three miles from shore; the rest are taken within that distance.

7. That I was out eight weeks one season in the *Spray*, belonging to Charlottetown, carrying eighteen hands; in that time we took over one hundred quintals of codfish and over two hundred and fifty barrels of mackerel, but that was not half the season.

8. That I was out in another Charlottetown vessel, carrying twelve hands, for five weeks, and in that time we caught two hundred barrels of mackerel.

9. That I was out one season in the American schooner *Mary S. Wanson*, of Booth Bay, and we caught six hundred and fifty barrels of mackerel; she was about eighty tons burden and carried seventeen hands; we made two trips and part of another in her.

10. That I was out part of one season in the *Burnside*; we were out about two months, and caught five hundred barrels of mackerel. She carried sixteen or seventeen hands.

11. That I was out in the *Fox* a long time ago; she was a small vessel; I was not in her the whole season. She only took two hundred barrels while I was in her.

12. That we fished in these vessels all around the north and part of the south side of this island, catching most of the fish in the bight of this island. We got the fish all close inshore; none of the fish were caught more than two or three miles off, and most of them right in among the boats on the shore. Most of the American vessels fished in the same places. Wherever the Americans saw the boats taking fish, they came right in there.

13. That the American fishermen do a great deal of harm to the boats by coming in and lee-bowing, and taking the fish away. They come in close to shore, throw bait and drift off, taking the fish with them. They sometimes drift down on the boats themselves, and the latter have to get out of the way to avoid being swamped. I have often had to do so myself. The fishermen are sure, when the Americans come round, that the boats are going to lose the fish. The vessels are the ruin of the boat-fishing. They heave so much bait that they glut and sink the mackerel. They also throw overboard the dirt and offal of the fish they clean, and the fish get sickened by it and won't bite; in fact, that offal poisons the fish.

14. When the cutters were about, they used to keep the Americans from fishing near the shore to a great extent. I have seen the schooners, when the boats were getting plenty of fish in sight, not daring to heave a line for fear of the cutters. Had there been half a dozen cutters, the Americans would not have been able to fish inshore at all.

15. That the right to transship their fish is a great advantage to the Americans, as they can thereby save more than a fortnight each trip, which, in the course of a summer, would amount to another trip.

16. That I was down at the Magdalen Islands herring-fishing one season, and there were then fifty or sixty sail of Americans fishing herring there. The herring are seined there, and a few are netted; they are caught right inshore, in Pleasant Bay.

17. That one winter I was herring-fishing at Newfoundland; then there were about thirty-five sail of Americans seining herring in Fortune Bay. These herring they freeze for the *George's* fleet and for markets.

18. That there are large fleets of American fishing-schooners in this gulf every year. There are three, four, and five hundred sail at a time. There are a great many of them coming down now; they are arriving fast.

19. That the Americans are now seining down here, and thereby doing a great deal of harm. They take so many more fish than they can save in the seines, that large quantities of fish are smothered and are thrown overboard. They take large quantities of herring in these seines, which they throw away and the fish are destroyed. One seiner last week here seined a trip of about a thousand barrels which he had to throw away, as his vessel was loaded. Several of the American vessels have already taken their loads and gone. The fish which are thrown overboard by the seiners rot at the bottom and drive the other fish away.

his
JAMES + McDONALD.
mark.

Sworn to at Souris, in King's County, Prince Edward Island, this 24th day of July, A. D. 1877, before me, the words opposite my initials having been first interlined, he fully understanding the same, and knowing the contents.

JAMES R. MACLEAN,
Justice of the Peace for King's County.

No. 41.

I, JAMES NOWLAN, of Souris, in King's County, in Prin Edward Island, fisherman, make oath and say:

1. That I have been engaged in fishing for about thirty-six years, part of that time in boats and in schooners. I fished for eight summers in American schooners, and I know the fishing grounds all around the north side of this island, the Cape Breton coast, the Magdalen Islands, and up the Bay Chaleur.

2. That there are about one hundred and fifty boats fishing out of the New London Harbor, where I am now fishing, and along the beach, and the number is increasing fast—has doubled at least within the last six years—and the boats themselves are now very much better than they were then; the boats are better built, better modeled, and are smarter boats than they were; they are worth much more. There is very much more money now invested in boats than there was a few years ago. People find that the fishing pays, and they are going in for it more and more. The boat-fishing affords employment to a lot of men who otherwise would not be at work.

3. The average crews of the boats are from four to five men to each boat, besides the men employed on shore, who are a good number.

4. That the average catch of mackerel for each boat off here is about one hundred barrels. Some years they catch more and some years less.

5. That the greater part of the mackerel caught by the boats is caught near the shore. More than three-quarters of the whole catch are caught within three miles from the shore.

6. That I was on board a small island schooner called the Mountie R., of about sixteen tons burden, and carrying seven hands. I was out in her for about one month two years ago, and we caught seventy-five barrels of mackerel; all we caught were caught within three miles of the land.

7. That I fished one year for mackerel on board the Nova Scotia schooner Let-her-Rip, of about twenty-seven tons burden, and carrying eight hands. I was in her only two months and thirteen days, and caught one hundred and fifty barrels of mackerel.

8. That I fished in American schooners eight summers, the last time being in the summer of 1874, on board the schooner Uncle Joe, of Southport, Maine. She was of about sixty tons burden, and carried

sixteen hands. We caught six hundred and eighty barrels of mackerel that summer on board of her. These mackerel were mostly caught along the island shore and up towards Port Hood. Of these we caught one hundred and seventy barrels in Rustico Cove, about a quarter to a half a mile from shore. More than three-quarters of the whole catch were caught within three miles of the shore.

9. That the American vessels in which I sailed would average about four hundred barrels of mackerel the season.

10. That the American fishermen hurt our fishing, as they throw so much bait that they sink the fish. They also clean their fish and throw the offal overboard, and that does harm to the fishing. This offal sickens and kills the fish. The Americans interfere with the boat-fishing by lee-bowing them, and draw off the fish. They come up ahead of the boats and throw bait and drift off, taking the fish with them. They break up the schools of mackerel where the boats are. The fishermen look upon the coming of the Americans as the end of the good fishing for the season. The boats do better before the Americans come than afterwards.

11. That the right to transship and refit on our shores is a very great advantage to the Americans. By having this right, they are able to save the time which it would take them to go home. This would be a save of at least a fortnight each trip, which would amount to a full trip saved for the season. They can also send away their mackerel in time to catch the market, which is a very changeable one. That in itself is a great advantage.

12. That I have often been herring-fishing at the Magdalen Islands, at Labrador, and on the Newfoundland coast. I was at the Magdalen Islands this summer two years, and there were a number of Americans fishing down there. The herring there are caught right in the harbor. The Americans catch large loads of herring at the Magdalen Islands, some of which I believe they send down to the West Indies. The herring there are caught altogether by seines. The American herring fishing there is a big trade.

13. The greater part of the codfish and hake are caught about two miles off the shore from this island. Three-quarters of the cod and hake are caught within three miles of the shore. The fishing within that distance is much better than farther off.

14. The fish, I believe in the spring, come down through the Gut of Canso, and then go to the Magdalen Islands, and from there they strike down towards the North Cape of this island. The American and any skilled fishermen know of this habit of the fish and know where to get them. The fishermen know just where to get the fish, and they make down from the States in the spring to the places to get them.

15. The year the cutters were about the Americans were afraid of them, but still they used to dodge in and fish. I believe that six or eight small cutters well fitted out would keep the American fishing schooners clear of the coast.

his
JAMES + NOWLAN.
mark.

Sworn to at French River, New London, Queen's County, Prince Edward Island, this 12th day of July, A. D. 1877, before me, having been first read over and explained, the said James Nowlan signing by his mark. Before me.

JOHN SHARPE,
Justice of the Peace.

No. 42.

I, JOHN G. MCNEILL, of North Rustico, in Queen's County, in Prince Edward Island, farmer and fisherman, make oath and say:

1. That I have been engaged in fishing for eighteen years, and that my experience has been in boat-fishing, and I am acquainted with the fishing off this part of the island.

2. That there are about eighty boats fishing out of North Rustico, without taking into consideration the other parts of Rustico. The number of boats has more than doubled in the last ten years, and is still on the increase. The boats take on an average crews of five men each, beside what men they employ on shore as stage-men.

3. That the boats on an average catch about one hundred barrels of mackerel each for the season, and about twenty quintals of codfish and hake each.

4. That the fish are nearly all caught close to the shore, the best fishing ground being about one and one-half miles from the shore; in October the boats sometimes go off more than three miles from land. Fully two-thirds of the mackerel are caught within three miles from the shore, and all are caught within what is known as the three-mile limit, that is, within a line drawn between two points taken three miles off the North Cape and East Point of this island.

5. The reasons for the increase in the number of boats is that people find that the fishing pays, and therefore they go in for it.

6. Some years there have been five hundred sail of American schooners fishing off this coast. I think the reason the schooners have not been as numerous around this shore within the last few years as they were before is, that they were scared away by the cutters some years ago, and they have been compelled to stop fishing. I believe, from what I know of the American vessels, that they catch on an average about five hundred barrels of mackerel each.

7. That the right of transshipment is valuable to the Americans, because they thereby save about three weeks each trip right in the heart of the fishing season, which, taking the two trips into consideration, would amount to a trip saved in the season. They can refit here more cheaply, I believe, than they can in the United States. They are also thereby enabled to take advantage of the markets; they can come on shore, find out how the markets are in Boston and other places, and ship away at once in time to catch good markets. That is a great advantage for them.

8. The cod-fishing begins here about the tenth of June, and the mackerel about the beginning of July, and the cod-fishing lasts till about the tenth of November, and the mackerel-fishing till about the twentieth of October, although we have taken mackerel later than that date.

9. There is pretty much a separate class here going in for fishing. The people now pay more attention to the fishing than formerly; the boats are better in every way than they used to be.

10. The coming of the Americans is a great injury to the fishing. They come down and lee-bow the boats, taking the fish away. They sometimes drift down on the boats and break the masts out of the boats, doing great injury. The Americans put an end to our good fishing when they come around. I believe one reason for this is the amount of offal which the Americans throw overboard. The blood and offal hurt the fish and sink them to the bottom. Their habit of throwing the offal overboard is very injurious to the fishing.

11. The Americans for the past two years have not been so numerous

here as before, because, owing to the large quantities of fish caught two years ago, the price of mackerel is not now as high as formerly. Two years ago, with three boats, I shipped one thousand barrels of mackerel.

JOHN G. McNEILL.

Sworn to at North Rustico, in Queen's County, in Prince Edward Island, this 10th day of July, A. D. 1877, before me.

WM. S. McNEIL,
J. P. Queen's County.

No. 43.

I, GEORGE MCKENZIE, of French River, in New London, in Queen's County, Prince Edward Island, master mariner, make oath and say :

1. That I have been engaged in fishing for about forty years, in schooners nearly altogether; I have fished at the Labrador for codfish and herring, and in the gulf cod and mackerel fishing, and I am well acquainted with all the fishing grounds from Sandwich Bay, in Labrador, all up the gulf to Anticosti. I have fished two years in Anticosti.

2. That there is a very large number of boats fishing off this harbor and the coast in this locality, and their number is increasing very fast; in this harbor they have doubled in number during the last year, and the boats are a hundred per cent. better now than they were; they are better rigged, better shaped, of better material, larger, and better in every respect than they were. The reasons for the increase in the boat fishing now is that people, finding it pays, are going more and more into it, and young men are now going in for fishing instead of leaving the island; young men do not care about going to sea as much as for fishing, as they can get money easier in the latter way. There is also a considerable surplus population springing up now, which find employment in fishing, which they could not get in any other way; men see there is an opening here for them in the fishing business, and they would sooner go into it than go away.

3. The boats take, on an average, crews of four men each, besides the men employed about the stages, who would be at the rate of about four men to six boats; this is besides the men who make the barrels, and others to whom employment is given preparing outfit and material for the boats; during the fishing season it would take twenty men, clear of the stages and the crews, to keep six boats going. Last year I paid one thousand and sixty dollars for the barrels used by me for my six boats, and which barrels were all made and supplied by men having nothing to do with the boats or stages.

4. That the average catch of mackerel for the boats, taking one with another, is not less than one hundred barrels. This I know from the number of barrels caught by the different boats here, as shown by the actual figures taken as the boats landed the fish.

5. That all these mackerel are caught right along the shore; none farther out than three miles from shore, and the greater part within one mile of the line of the shore.

6. That the boat fishing here puts a great deal of money in circulation in the country, as the moment the fish are shipped the fishermen or shippers can draw for the money, and the banks cash their drafts. This keeps up a good circulation of cash in the country, and does a lot of good in that way.

7. Until the last two years there have been fleets of 500 sail of American fishermen fishing in the gulf. The reason they have not been so

numerous the last two years is that they have had good fishing on their own shore, a thing which very seldom happens. It is only very seldom that they have good fishing on their own coasts.

8. That fully two-thirds of the fish caught by the Americans are caught near the shore, within three miles of it. I know this, because I have fished among them year after year, and I never saw twenty of them at a time fishing more than three miles off, while from 150 to 200 sail of them would be fishing close to the shore. They and the island schooners always fish about the same grounds. The inshore fishing has always been the best for mackerel at all seasons of the year.

9. That my average catch of mackerel while fishing in island schooners was about 500 barrels of mackerel each year, but we were not so well fitted out as the Americans, they having more men, better fit-outs, and more experienced fishermen than we had. The average catch of the Americans was consequently much larger than ours. They would average a thousand barrels each until the last two years, when they have been fishing on their own coast. During the last two years they would not average more than 400 barrels down here, because they did not come in time, and the fish were close inshore, and there were not so many fish here as before.

10. That the Americans catch codfish near the Labrador, close into the rocks. There used to be about two hundred sail of American cod-fishermen at the Labrador and along the gulf shores.

11. That the American schooners used to do great injury to the boat-fishing. When the American fleet was down here, it used to knock up the boat-fishing. They used to hurt the boats, and in fact their schooners did not care what they did to the boats. When they saw the boats raising fish they would come right up and drift down upon the boats when the boats had to get out of the way. Their schooners, when the boats were getting fish, come up and lee-low the boats and take the fish away from them. They used to break up the schools by running down among them and throwing bait. When the Americans clean their fish, they throw the offal overboard and that is a great injury to the fishing, as it drives the mackerel from the ground, and I believe it kills them.

12. That the Americans fish large quantities of herring at the Magdalen Islands; they often have one hundred and fifty sail of vessels there fishing herring there. I have seen the number as low as sixty sail, but very seldom. They average about one thousand barrels of herring to each vessel. These are all caught inside of Pleasant Bay, and they are all caught by seines. These herring are partly smoked and are sent to different parts of the United States, and to the West Indies, and Sweden, and in fact to wherever there is a market. The herring fishery at the Magdalen Islands is a very valuable one for the Americans, as they are put to little expense about it and get large returns.

13. The Americans always come down after the Fourth of July, I have seen a hundred sail of them go into Halifax in one day to fit out for the gulf-fishing. They stop here till late in November, generally making two or three trips in the season. I have seen thirty sail of American schooners come out of Malpeque Harbor, and to my certain knowledge, they each wanted from one hundred to one hundred and fifty barrels of being loaded, and they dropped down and fished between New London Head and Rustico Head, not two miles from shore, and before sun-down they had all completed their cargoes and sailed for home.

14. Our regular mackerel season begins here about the first of July: The mackerel strike in here about that time. At the North Cape of this island they strike earlier than they do here. The mackerel season lasts

till about the last of September, although they are often caught as late as December. The mackerel stop here till December, but the weather gets too blustery to go off for them.

15. That in the spring the mackerel are first caught at the Magdalen Islands, where they are caught in nets by the Nova Scotians and Americans. The mackerel strike the Magdalen Islands about the first of June, right after the herring leave. I think they always come to the Magdalens round Cape North. The mackerel don't stop there long, but strike for the North Cape of this island, and from there they make over for the New Brunswick coast, and about the month of August they work back southward again. This general habit of the mackerel is well known to fishermen, and the American fishermen know the habit first rate. When the mackerel strike off for this island the American schooners never wait along the bight of this island but press up toward the North Cape, and Miscou, and Mira, and generally along the west coast of New Brunswick, and up as far as Seven Islands above Anticosti, as their experience has taught them that that is the quarter where the fish are to be found first. Later on in August and September they come back into the bight of this island, and that is the time they interfere with the boats. Nearly all the fish caught during these times are caught near the shores of the British possessions, although there are some American vessels which fished entirely in deep water away from the land, but these are comparatively few. Some of the Americans used to be afraid to fish near the shore through fear of the cutters.

16. That it would not be worth while for the American fishing-schooners to fit out for fishing in the gulf, if they were not allowed to fish near the shores. They might as well stop at home.

17. That at the present time about four hundred sail of American cod-fishing vessels fit out on the British coasts from Cape Sable in the southern part of Nova Scotia, round to Cape North. They take in bait and ice for the trawl or set-line fishing on the Banks off the Nova Scotia and Newfoundland coasts. They could not carry on this cod fishery unless they could get their ice and bait on British territory. They could not bring the bait from home with them, as the distance is too great and they could not get fresh herring at home. They also get their ice cheaper and better on our shores than they can buy it in Boston.

18. That the right of transshipment is a very great privilege to the Americans. By it they are enabled to make a trip more in the season than they could if they had to take their fish home in their own vessels; they save a fortnight each trip by having this right. They can also fit out here cheaper than they can at home, which in itself is a great advantage to them. They can also put their fish into the markets without delay, when they are able to transship them in our ports, and thus take advantage of high prices in the fish-market, which is about the most fluctuating market in the world. The vessels can land even partial cargoes, and ship them on to the United States and sell them "to arrive," which is a very great thing for the fishermen. The fish also get worse the longer they are kept on board the vessels; they fail—that is, they get light, and are apt to rust owing to the barrels leaking the pickle; in fact they get to look worse, and are worse, and command a lower price the longer they are kept on board the vessel. They also get knocked about by the tossing of the vessels.

19. That there is a great deal of herring-fishing done by the Americans in the winter at Boone Bay, Bay Fortune, and at other places on the coast of Newfoundland. These herring are caught for pickling and for bait, and quantities are frozen to send down to Boston and other

places in the States for home consumption. There would be fifty sail of American down there at a time, and they are coming and going the whole time.

GEORGE MCKENZIE.

Sworn to, at French River, in New London, in Prince Edward Island, this 12th day of July, A. D. 1877, before me.

JOHN SHARPE,
Justice of the Peace.

No. 44.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, PETER PAINT, Sr., of Port Hawkesbury, in the county of Inverness, and Province of Nova Scotia, merchant, make oath and say as follows :

1. I have been for the past forty-five years dealing in fish and fishing-supplies, and I am acquainted with the fisheries in the Gulf of Saint Lawrence, but principally with those on the Nova Scotia shores, bordering on that gulf. I deal in all kinds of dry and pickled fish to the extent of \$20,000 per annum.

2. I estimate that since I have been doing business as aforesaid, the American fishing-fleet in the Gulf of St. Lawrence has ranged from 400 to 800 sail each year. I have understood that there have been some years as high as 1,000 sail of mackerelers and cod fishermen. I have known of 150 cod-fishing vessels and 600 sail of mackerel-catchers in a single season in the gulf.

3. The catch of mackerel per vessel is between four hundred and five hundred barrels each season, worth about \$12 per barrel. The cod fishermen average about one thousand quintals per vessel each season, worth \$5 per quintal.

4. The codfish are caught with hooks, and the mackerel principally with hooks.

5. I believe that the Americans injure our fishing grounds by throwing overboard offal and garbage and that the fish are driven away by this practice.

6. The Americans have always fished as near the shore, as they could, whether it was lawful for them to do so or not. The cutters kept them off to some extent between 1866 and 1871.

7. The inshore mackerel fishery is, in my opinion, more valuable than that outside. The herring fishery is carried on inshore altogether. I am of opinion that more than half the mackerel are caught inshore.

8. The American fishermen of late years are attempting to use seines in catching the mackerel in the Gulf of St. Lawrence. I consider this practice very injurious to the mackerel fishery, as it tends to break up the schools and drive away the fish.

9. I am not aware that the fish frequenting Canadian waters have increased or decreased to any great extent since the Treaty of Washington. The mackerel were somewhat scarce in 1875 and 1876, but I have known them to be just as scarce several times since I have been doing business here, and they always came in plenty again in a year or two. The mackerel are coming in in large numbers this year, and there is every prospect of a good catch, I believe.

10. I believe that the Americans handle and dress their mackerel better than our fishermen do, and for that reason they sometimes obtain a higher price for them in the American market.

11. It is certainly a very great advantage to the Americans to be allowed to land and transship their cargoes, as it enables them to make more trips and consequently catch more fish than they otherwise could. By means of this privilege they save about a fortnight each trip. I think it adds fifty per cent. to their catch when the fish are plenty.

12. It is much cheaper for the American cod-fishermen to buy their bait on our shores than to spend the time in catching it themselves. They consequently purchase almost all their bait from our merchants and fishermen. It would be utterly impossible for the Americans to carry on the cod and other deep-sea fisheries profitably without resorting to our shores and harbors for bait; nor could they carry on these fisheries profitably without obtaining ice to preserve their fresh bait, and other supplies on our shores.

13. The privilege of fishing in American waters I consider to be of no practical advantage to Canadians, and I never heard of Canadians availing themselves of this privilege.

PETER PAINT, SR.

The said Peter Paint was sworn to the truth of this affidavit at Port Hawkesbury, in the county of Inverness, this 25th day of July, A. D. 1877, before me.

MALCOLM McDONALD.

Justice of the Peace.

No. 45.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, GEORGE C. LAWRENCE, of Port Hastings, in the county of Inverness, merchant, make oath and say as follows:

1. I have been engaged here and at Port Hood for the past fourteen year in a general fish trade, and have dealt in cod-fish, mackerel, and herring. I am carrying on a large fishing-business here now, and during the period named I have had good opportunities of watching the fishing business of the Gulf of Saint Lawrence and becoming familiar with it.

2. During the Reciprocity Treaty there were each year in the gulf about five hundred American vessels. These would average from sixty to seventy tons each, and their crews would number about fifteen men. They were engaged chiefly in taking mackerel, and cod-fish, and herring from the Magdalen Islands and Bay Chaleurs. The mackerel vessels in the gulf during the Reciprocity Treaty in the most favorable years would average about five hundred barrels of mackerel per season.

3. After the termination of the Reciprocity Treaty, the number of American vessels decreased on this coast, and, so far as I am able to give an opinion, their profits diminished after that time. During the last two or three years since the Washington Treaty the American mackerel fleet in the gulf has been somewhat smaller than in former years under the Reciprocity Treaty. The catch of mackerel has been smaller. I do not regard this as due to any permanent falling off in our mackerel fisheries, but merely accidental and temporary. I have reason to believe that the catch will be larger this year than for some years past, and I know no reason why our mackerel ground should not be as productive during the next eight years as heretofore.

4. The privilege of transshipping cargoes in our ports is a great advantage to American fishermen. I have known it to be done since the

Washington Treaty. It enables the American vessels to make more trips, catch more fish, and increases the paying capacity of the enterprise.

5. It is a great advantage to American fishermen to be allowed to procure bait in our waters and ports, and from our fishermen. They could not carry on their cod-fishing successfully without it. The very fact that Americans in many cases buy the bait instead of catching it themselves is evidence that they find it more profitable to do so.

6. It is also an advantage to American fishermen to be allowed to resort to Canadian inshores for ice to preserve their bait and to supply themselves with other articles for outfit required in the business.

7. The privilege of fishing in American waters has so far, at least, not proved of any advantage to Canadian fishermen so far as I know.

8. Not nearly all the American fishing-vessels passing through the Straits of Canso are noted or reported. A great number pass through every year that have never been noted or reported at all.

9. The Newfoundland herring fleet from American ports go thither along the eastern side of Cape Breton instead of passing through the straits, and toward the latter part of the season large quantities of the most valuable mackerel are taken by Americans on the eastern shore of Cape Breton between Cape North and Louisburg, and thereabouts.

10. I do not consider the privileges derived by Canadians of sending fish into American markets free of duty as at all equivalent to the advantages which the Americans obtain under the Treaty of Washington of catching fish, getting bait, and transshipping in our waters and ports.

GEO. C. LAWRENCE.

Sworn to before me at Port Hastings, in the county of Inverness, this 25th day of July, 1877, before me.

W. M. CLOUGH, J. P.

No. 46.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, JAMES B. HADLEY, of Port Mulgrave, in the county of Guysborough and Province of Nova Scotia, notary public, make oath and say as follows:

1. I have resided at the Strait of Canso since the year 1837. From that time until the year 1841 I was engaged in general trade and fishing business. After that I was collector of light duties and preventive and excise officer until the year 1848, after which year and until the year 1856 I was engaged in mercantile and fishing business. Since the year 1856 I have done business as a public notary. During the whole period since the year 1837 I have had a very extensive and complete knowledge, both personally and otherwise, of the fishing business as carried on by the Americans in the waters on the coasts of Nova Scotia, the Eastern or Gulf coasts of New Brunswick and Quebec, at the Magdalen Islands and Anticosti.

2. That I am well acquainted with the different voyages that the Americans undertake in our waters for fishing purposes. From about the 20th of April to the 10th of May, the Americans pass through the Strait of Canso to the herring fishery at the Magdalen Islands. The next fishery, in point of time, was in former years the Labrador cod fishery; now, however, trawling for codfish comes next, upon which

they enter, as soon as they can procure bait, which, with other supplies, they obtain on our coasts, especially at the Strait of Canso. From the 25th of June until the last of October they enter our waters to prosecute the mackerel fishery chiefly in the Gulf of Saint Lawrence. The number of American vessels fishing in our waters for mackerel has ranged in different years from one hundred and fifty to six hundred sail, the number of men in each vessel ranging from ten to eighteen. The principal places where the Americans fish for mackerel in the summer months are all over the Gulf of Saint Lawrence, off Pomquet Island, Port Hood, Prince Edward Island, in the Northumberland Straits, off Point Miscou, as far up as the Magdalen River, across to the Seven Islands, off and around Magdalen Islands, and in the fall from East Point and the Magdalen Islands and Island Brion, thence to Cape Saint Lawrence and Port Hood, and around the eastern shore of Cape Breton to Sydney Harbor. The trawling for codfish is done all around our shores from the first of May till the fall. They also carry on the herring fishery and cod and halibut fishery from Anticosti, as far north as Greenland and Labrador, on both shores; also at Bay of Islands, Bay Saint George, and Fortune Bay, the latter place being visited in the winter season. The number of vessels in the herring fishery at the Magdalen Islands alone, ranges from ten to seventy-five sail of American vessels.

3. The mackerel fleet take from four hundred to eight hundred barrels per vessel each season. The herring fleet would formerly take from six hundred to a thousand barrels in bulk each season, per vessel; latterly larger vessels are used in this fishery and a larger quantity taken.

4. The American fishermen carry on their fishery in our waters by the means of seining, trawling, and books.

5. Wherever trawling is prosecuted it is very destructive to the boat fishery. The Americans also injure our boat fishery or shore fishery by throwing over great quantities of bait. The fishes are also in some cases driven away by the quantity of garbage and offal thrown overboard by American vessels. Great destruction is also done to our fisheries by the Americans by the practice of seining.

6. In the prosecution of the mackerel fishery by far the greater portion is taken within three miles of the shore, and the mackerel fishing outside the three miles is of little or no value. The herrings are all taken within the harbors and bays of our coasts, and the trawling for codfish is also done within three miles of the shore. The privilege of coming within the three miles of the shore is of vital importance to the Americans, as all the best mackerel are taken close inshore to the very rocks. The outside fisheries would be of little importance or value to the Americans if they were kept outside the three-mile limit. It is for this reason that they have exposed themselves to so great risks in order to fish within the three miles, as they obtain so large a price for the mackerel caught inside in the fall of the year between Port Hood and Margaree, which used to bring from twenty to thirty dollars per barrel.

7. The Americans do great injury to our boat fishery by running in and "lee-bowing" the boats and taking away the fish from them into deep water by throwing bait. Their system of trawling for codfish tends to destroy the mother fish which are lying on the bottom in a kind of stupid state just before they spawn.

8. The privilege of landing and drying their seines and nets and curing their fish is of great importance to the American fishermen.

9. It is also a valuable privilege to the Americans to be allowed to land and transship, or store their cargoes, by which means they are enabled to make three or four trips to the Gulf of St. Lawrence if the fish

are plenty, whereas they could otherwise make only one or two trips by taking the fish home in their own bottoms each time.

10. The trawlers for codfish could not prosecute their calling without obtaining bait and other supplies on our shores ; at least not at all in a profitable manner. I have known them to be compelled to abandon their voyage in consequence of not being able to procure bait on our shores. The obtaining of ice and other supplies on our coasts is also a very great advantage to the American fishing-vessels on our coasts.

11. The privilege of fishing in American waters is, in my opinion, of no practical advantage whatever to Canadians, and I never heard of any Canadian using those waters for fishing purposes.

12. In my opinion it would be better for Canadians to exclude the Americans from the fisheries within the three-mile limit, and keep them for our own people, even if the American Government put a duty of \$2 per barrel, or any other amount of duty, on our fish.

And I say that the above statements, to the best of my knowledge and belief, are true in substance and in fact.

JAMES B. HADLEY.

The said James B. Hadley was sworn to the truth of the above affidavit, at Port Mulgrave, in the county of Guysborough, this 24th day of July, A. D. 1877, before me.

GEO. B. HADLEY,
A Justice of the Peace.

No. 47.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, MICHAEL CRISPO, of Harbor Au Bouche, in the county of Antigonish and Province of Nova Scotia, merchant, make oath and say as follows :

1. I have been acquainted with the fisheries on our coasts for the past thirty years, during ten years of which time I was personally engaged as a practical fisherman, and during the remainder of said time I have dealt in various kinds of fish to the extent of about \$20,000 or \$25,000 yearly. Up to the year 1874, I estimate that there were, on an average, about four hundred sail of American vessels engaged in the mackerel fishery on our coasts and in our waters each year, and that the yearly catch up to that date would average about six hundred barrels to each vessel. During the past three years the number of American vessels in the mackerel fishery on our coasts has been smaller, as the mackerel have been less plenty. This year, however, there appear to be plenty of mackerel in Antigonish Bay, and there is a good prospect of a fair catch there. I have not heard how the fishery this year is succeeding on the other parts of our coast. It is my opinion that the scarcity of mackerel in our waters is not permanent, and that they will come in again as plenty as ever, unless destroyed by the purse-seines which the Americans are beginning to introduce in our waters.

2. Formerly about one-half of the mackerel were caught within three miles of the shore. Of late years, however, two-thirds of them are caught within that distance, in my opinion ; and I consider the inshore mackerel fishery of much greater value than that outside. The herring fishery is almost altogether inshore, and is carried on principally at the Magdalens and on the shores of Newfoundland and Labrador, and is probably as good at the present time as ever it has been. The cod

fishery is principally on the Banks, as the inshore fishery has been greatly injured by the practice of trawling followed by the American fishermen. The mackerel are caught all around the shores of the Gulf of St. Lawrence.

3. I consider the practice of seining, which is beginning to be employed of late years by the Americans in the mackerel fishery, is very injurious. By means of this they have ruined the mackerel fishery on their own coasts, and will doubtless injure ours very greatly in the same way. The seines to which I refer are called "purse seines," because they draw up at the bottom like a purse. They destroy a great many fish uselessly, and tend to break up the schools of mackerel.

4. I do not think that the Americans could profitably carry on the cod fishery without procuring bait on our shores. They purchase a large quantity of bait from our fishermen and merchants. They also procure on our coasts a good deal of ice, which enables them to preserve their bait much longer than they otherwise could. I refer to the cod fishery in the Gulf of St. Lawrence. The vessels engaged in this take about four hundred barrels per vessel each season, worth about \$1,600.

5. The inshore boat fishery of Canadians is injured by the Americans coming in among them and baiting the mackerel and enticing them away; and I consider that it would be a valuable advantage to British fishermen to carry on this inshore fishery without being subjected to local competition by United States citizens.

6. The privilege of landing and transshipping cargoes is of great advantage to the Americans engaged in the mackerel fishery on our coasts, as they are thereby enabled to make more trips and catch more fish than they otherwise could. They save about a fortnight by this means on each trip they make.

7. I consider that the fact of American mackerel bringing a higher price than Canadian is largely owing to the former being placed in the market sooner after being caught than are the Canadian mackerel. On this account they look better and fresher when sold, and consequently bring a higher price. Our mackerel are worth about \$12 per barrel.

8. The privilege of fishing in American waters I consider of no advantage to Canadians, and I never heard of Canadians availing themselves of such privilege. To the best of my knowledge and belief these statements I have made in this affidavit are correct.

MICHAEL CRISPO.

The said Michael Crispo was sworn to the truth of this affidavit at Harbor Au Bouche, in the county of Antigonish, this 1st day of August, A. D. 1877, before me.

EDWARD CORBET,
A Justice of the Peace.

No. 48.

ROBERT STEWART MUNN, age 47 years, merchant, and one of the partners in the firm of John Munn & Co., doing business at Harbor Grace, Newfoundland, maketh oath and saith:

Deponent has been for upwards of twenty-five years engaged in the trade and fisheries of Newfoundland, and is well acquainted therewith in all their details.

Deponent is aware that a large number of United States vessels prosecuting the Bank fishery are supplied with fresh bait and ice in the harbors along our coasts.

Deponent further states, that the Newfoundland cod fishery is an inshore fishery, as is the bait fishery, being prosecuted within three miles of the shore. The supply of bait to United States fishermen along our shores acts injuriously on local fishermen, for although it is true that there is an abundant supply of such bait, yet the very large quantities required by United States fishermen and their extensive operations in procuring such frequently drives bait from coves and inlets where the local fishermen were accustomed to get their supply, and where their facilities enabled them to obtain what bait they needed, whereas they have not the conveniences of following the bait from harbor to harbor; and, further, the bait being thus driven from these localities, codfish also disappear, as they follow the bait; the result being that the local catch has become precarious, and a marked reduction is evident since United States fishermen began the bait trade in these waters.

Deponent is well informed in affirming that one million dollars is a moderate valuation of the fish consumed for food, bait, and agricultural purposes by the inhabitants of Newfoundland, and that an average estimate of the profit on the yield of the inshore fisheries of Newfoundland would and does exceed twenty per cent., as is shown by the annexed statements marked A and B, which were carefully compiled from the books of the firm of whose business this deponent is managing partner.

The traffic in bait by United States fishermen is an absolute injury to the people of this country and represents no actual money profit to our fishermen.

Commercially the Treaty of Washington has not benefited Newfoundland by creating an extra demand or outlet for any of the produce of this country, nor can such be expected, inasmuch as United States fishermen, enjoying equal rights with Newfoundland fishermen, will fully supply their own markets with fish, and the exports of oils have not increased since the Treaty of Washington came into operation.

In explanation, I wish to state that the reason why I say that the bait traffic is of no money profit to our fishermen is, first, the amount paid for bait is small and no compensation for the labor of procuring the same, and secondly the fishermen could be more profitably employed in catching codfish, which would yield them a much larger profit, and as a fact, fishermen engage in this bait traffic for the purpose of obtaining a little ready cash, the greater part of which they waste in dissipation.

ROBERT S. MUNN.

Sworn before me, at Harbor Grace, Newfoundland, this 27th July, 1877.

J. O. FRASER,
Commissioner of Affidavits.

A.

Fishing-voyage statement.

We take the average of 4 years' catch—1873, 1874, 1875, and 1876—of one of our fishing jacks, with two men, and find it 80 quintals, which, at the value of \$5 per quintal, is.....	\$400 00
And 2 barrels herring at \$2	4 00
	<hr/> \$404 00

EXPENSES, &C.

Now if these men hired their boat, they would have to pay only \$14; but we charge her as a new boat, costing, with all her outfit, \$90.00. She should, at least, run 7 years—making a yearly hire equal to	\$12 86	
Add yearly expenses fitting out.....	7 14	
	<hr/>	20 00
A herring net and moorings cost \$24—for four years, or yearly	6 00	
1 cast net, \$3—for three years, or yearly	1 00	
1 dozen lines, \$4, and 6 dozen hooks, 60 cents.....	4 60	
Twines used and lead	1 40	
	<hr/>	13 00
Extra allowed—cordage, &c., that may be required		10 00

PROVISIONS USED.

1½ bags bread, at \$6	9 00	
1 barrel flour.....	10 00	
½ barrel pork.....	12 00	
5 gallons molasses	3 50	
6 lbs. tea, 70c.; 10 lbs. butter, 30c.....	7 20	
Allowed for expenses, cooking gear &c.....	3 30	
	<hr/>	45 00
Allowed for labor, assisting to cure fish—80 qtls., at 20.....	16 00	104 00
		<hr/>
	Net amount for boat	\$300 00
	“ per man	\$150 00

The yield of oil one year with the other fully pays the expense of salt.

ROBERT S. MUNN.

The above account is for two partners; deducting the customary wages therefor of one-half their catch shows a profit of 25 per cent.

J. O. F.

B.

A cod-seine crew,

On an average, would for the season catch 500 quintals, at \$5. Crew consisting of master, 6 sharemen, 1 boy, and 2 girls..... \$2,500 00

EXPENSES.

A new cod-seine will cost.....	\$440 00
Bags, cordage, &c.....	80 00
	<hr/>
	520 00
Probably required for a period of 7 years' use—to replace twine, &c.....	80 00
	<hr/>
Full cost.....	600 00

Which for seven years will be yearly for hire.....	85 60	
Allowed for extra cordage, &c., yearly.....	20 00	
A cod seine boat and gear will cost \$63, or 7 years' hire.....	9 00	
2 bulley boats.....	160 00	
1 smaller boat.....	48 00	
1 punt.....	16 00	
	224 00	
Which will run at least 7 years, making a yearly hire of.....	32 00	
Allow for expenses yearly boats.....	12 00	
3 dozen lines for fall fishing.....	12 00	
1 gross hooks for fall fishing.....	1 40	
Twines, \$3; lead, \$2.....	5 00	
Provisions used and extras.....	250 00	
Yearly hire nets.....	20 00	
6 sharemen, at \$175.....	1,050 00	
1 boy.....	70 00	
2 girls, at 25.....	50 00	
	1,170 00	
Allowed for yearly expenses, fishing room, &c.....	50 00	
For other labor besides crew, curing fish, say 500 quintals at.....		
20 c.....	100 00	
Master's share as shareman.....	175 00	
	1,942 00	
Net gain on voyage.....	558 00	

Oil for salt as usual. Some of the expenses fitting out is done by crew.

ROBERT S. MUNN.

No. 49.

NEWFOUNDLAND,

St. John's, to wit :

James S. Hayward, of St. John's aforesaid, assistant collector of Her Majesty's customs, maketh oath and saith : That the statement hereto annexed,* showing the quantity and value of the products therein referred to exported and imported by the colony of Newfoundland for the years therein stated, viz, eighteen hundred and fifty-one to eighteen hundred and seventy-six, in and from page I to page XX inclusive, and also that the statements hereto annexed, marked A and B,* purporting to be a recapitulation of the imports from the United States and exports to the United States and other countries for the year 1851 to the year 1876 inclusive, and a statement showing the total and average imports and exports of fish and products of fish for the four years preceding the Reciprocity Treaty, the twelve years under the treaty, seven years after its abrogation, and three years under the Washington Treaty respectively, have been carefully examined by this deponent, and that the said statements, to the best of this deponent's knowledge and belief, exhibit a true and correct account of the several matters therein set forth.

JAMES S. HAYWARD,
Assistant Collector.

Sworn before me, at St. John's aforesaid this nineteenth day of July, A. D. 1877.

J. O. FRASER,
Commissioner of Affid.

No. 50.

NEWFOUNDLAND,

St. John's, to wit :

James S. Hayward, of St. John's aforesaid, assistant collector of the customs, maketh oath and saith that the statement annexed, marked No. 11,† has been carefully examined by this deponent and he verily believes

* Appendix I.

† See Annex B, attached to British case.

the same to be correct in every particular, the same having been compiled from the records of the customs establishment and other authentic records in this island.

JAMES S. HAYWARD,
Asst. Collector.

Sworn before me, at St. John's aforesaid, this fifth day of June, A. D. 1877.

J. O. FRASER,
Commissioner of Affidavits.

No. 51.

NEWFOUNDLAND,
St. John's, to wit:

The honorable James Johnstone Rogerson, of St. John's aforesaid, receiver-general and collector of customs for the island of Newfoundland, maketh oath and saith that the annexed statement, marked A,* has been carefully examined by this deponent, and he verily believes the same to be correct in every particular as therein set forth, the said statement having been compiled from the records of the customs department and other authentic records of the said island.

JAMES J. ROGERSON,
R. G. and C. Collector.

Sworn before me, at St. John's aforesaid, this eighth day of June, A. D. 1877.

JAMES O. FRASER,
Commissioner of Affds.

No. 52.

NEWFOUNDLAND,
St. John's, to wit:

I, Joseph P. Deneff, at present in St. John's aforesaid, and a native of the said island, do declare that I have been for the past six years, last preceding the date hereof, engaged in prosecuting the fisheries out of the ports of Salem and Gloucester, in the United States, on the coasts of Newfoundland, of the Dominion of Canada, and on the Banks in the deep sea; that I am of opinion that it will be of the greatest importance to American fishermen to be enabled to get the bait necessary for the Bank fisheries in Newfoundland; that this benefit can hardly be overestimated; that there will be, during the current season, upwards of two hundred American vessels in Fortune Bay for bait, and that there will be upwards of three hundred vessels which are engaged in the Grand Bank fisheries belonging to the United States, to which it will be of the greatest advantage to run into Newfoundland for bait of different kinds, and they would probably make about four trips during the season; that caplin is among the best bait which can be used for this fishery, and vessels would probably be enabled to make two trips during the caplin season; that this declarant is of opinion, from his experience, that the Bank fisheries are capable of immense expansion and development, and that the privilege of getting bait on the Newfoundland coast is indispensable to accomplish this object; that a vessel of from seventy to ninety tons would take about one hundred barrels of caplin each trip.

JOSEPH P. DENEFF,
Master of the schr. John Smith, of Gloucester, Mass., U. S.

* See Annex D, attached to British case.

Declared before me this 23d day of May, A. D. 1876, at St. John's aforesaid.

W. O. WHITEWAY,
Notary Public.

No. 53.

WILLIAM H. MULLOY, master-mariner, aged 27 years, presently residing at Gloucester, U. S. A., and now at St. John's, N. F., maketh oath and saith:

I have prosecuted the Bank cod-fishery six years as master, and two years as a hand; during all this time I sailed from Gloucester, U. S. A. The size of the United States vessels prosecuting the Bank fishery ranges from sixty-five to ninety tons, carrying crews of from twelve to fourteen men all told.

The cost of outfit for a new banker of about seventy tons will be about three thousand dollars over and above the price of the vessel.

In the opinion of this deponent it is of the greatest importance for American vessels prosecuting the Bank fishery from the United States to be enabled to procure bait and refit their vessels in the harbors of Newfoundland, it will enable them to increase the number of trips, and the consequent lucrative results of the operation, especially if transshipments be resorted to in Newfoundland harbors. The advantage of baiting on the coast of Newfoundland, as compared with baiting on the coast of Nova Scotia, or any other part of the Dominion of Canada, is very considerable, inasmuch as from Newfoundland Harbors a vessel baiting there can generally be upon the fishing grounds on the Banks from twelve to twenty hours after leaving port, whereas from the coasts of Nova Scotia, the distance being much greater and a greater prevalence of easterly winds, bait is liable to and does frequently become deteriorated before reaching the fishing grounds.

From my experience and observation I am of the opinion that the Bank fishery off the coast of Newfoundland is capable of vast expansion and development, towards which the privilege of baiting and refitting in the harbors of Newfoundland is indispensable. If United States vessels were prevented from procuring bait on the coasts of Newfoundland and the Dominion, they would be dependent alone upon salt bait and such casual refuse bait, such as hagdown halibut, small codfish, cod-roe, and such like, as could be got upon the Banks, and therefore could not make more than one trip of codfish during the season; in fact, the Bank fishery under such circumstances could not be carried on from the United States with profitable results, and as a matter of fact, prior to 1874, United States banking vessels have generally resorted to ports on the Newfoundland coast for bait where they could evade custom officers and procure bait in contravention of the law.

Prior to 1874 United States bankers threw away all fish less than twenty-two inches or twenty-eight inches as caught; now the small fish is brought into Newfoundland ports and there sold, slightly salted, to advantage. I last year sold one hundred and fifty quintals of such fish at nine shillings and sixpence per quintal. The privilege of selling oil in Newfoundland ports is of importance—also as providing necessary funds for the purchase of bait and for refitting.

The quantity of small codfish caught by each banker during the season will be fully two hundred and fifty quintals upon an average of every two loads of codfish caught upon the Banks. The number of United States vessels prosecuting the cod-fishery on the Banks off Newfoundland each season from the port of Gloucester is about three hun-

dred; there are vessels fitted out from other ports in the United States besides Gloucester, but not to so large an extent. The average catch per vessel on the Banks will be two thousand five hundred quintals codfish, the value of which will be about twelve thousand dollars to the owner.

The result of my last year's operations is as follows:

Total catch, thirty-seven hundred quintals for the season—three banking trips; value thereof, about seventeen thousand dollars; expenses of wages, crew's share of voyage, outfit, and provisions was about twelve thousand dollars; leaving a clear profit to the owner of about five thousand dollars. The owner derives a considerable profit also from the difference between the prices he allows the crews for their share of fish and what it is worth to him in the market, by which he would gain on the quantity above stated about eighteen hundred dollars. The owner, in my case above cited, settled with the crew at two dollars and seventy-five cents per quintal as weighed out of the vessel, the market value of which fish when cured was four dollars eighty cents per quintal—the loss in weight, which is very trifling, and labor in curing would not cost more than one dollar per quintal. Each United States fishing-vessel will make from three to five trips to the Newfoundland coast for bait during the season. Each vessel takes from sixty to eighty barrels of the bait in season per bait trip. At the time when caplin first strike the shores of Newfoundland there is no bait equal to it in the quantity of fish taken by it, and this bait is peculiar to Newfoundland. Caplin keep longer fresh in ice than any other bait we know of.

During the last three years there has been a marked scarcity of squid on the Great Banks, where formerly an ample supply of squid was procured for baiting purposes, but latterly has been found wholly insufficient, and consequently the importance of having Newfoundland as a basis for bait supply is materially enhanced.

In illustration of the result of a season's Bank-fishery operations in two vessels similarly outfitted and alike in all respects, both fitting out from Gloucester, one having the privileges conferred by the Washington Treaty, the other without these privileges, I am of opinion that the latter would only accomplish one voyage or trip during the season, whilst the former would accomplish three voyages or trips. I am generally well acquainted with the bait supply along the Newfoundland coasts, and know that there has always been procured a sufficiency for the purposes of United States fishing vessels, and ice can always be obtained along the coast.

I know of two United States vessels that fished for codfish inside the Keys, St. Mary's, that is on the inshore ground. I fished there myself.

WM. H. MOLLOY.

Sworn before me, at St. John's, N. F., this 24th of May, 1877.

J. O. FRASER,

Commissioner of Affidavits.

No. 54.

GEORGE ROSE, aged 54 years, maketh oath and saith, that he resides at Little Bay, in Fortune Bay, fisherman. I have become acquainted with the Newfoundland fisheries by following the same for forty years.

I have observed United States fishing vessels in this neighborhood; about twenty this year. Among these I can name W. J. Sawyer, John Archard, master, of Southport, U. S. A.; another commanded by Captain McDonald; another, the Gettysburg, Robert Grant, master; the

City of Gloster, Stephen Mitchell, master, of Cape Ann; the Pettingale, Hector McKenzie or McKeen, master, of Gloucester, Cape Ann. The vessels I saw in this neighborhood came to purchase bait, which they procured.

I have sold bait to United States fishing-vessels; I have baited six of such vessels, supplying each vessel with fifty barrels herrings, for which I was paid from twenty to twenty-five dollars each vessel.

Newfoundland fishermen fish within three miles of the shore. The Newfoundland fishery is an inshore fishery.

The caplin, herring, and squid fishery is inshore. Squid, at certain times, are taken a mile from the land, but generally are taken in the coves of the different bays.

I never heard tell of a Newfoundland vessel fishing on the United States coast. About thirty American vessels frequent Fortune Bay for the purchase of frozen herring in winter, which they purchase because they can purchase cheaper than they can catch. American fishermen do refit their vessels as required on their visits to these parts.

I do think that the supply of fresh bait to the Americans, who fish in large numbers on the Banks off our coast, helps greatly to shorten the catch of our local fishermen, and that the short catch on our southwestern shores this summer has been caused by the extra number of Americans thus engaged. My opinion is that the Americans do more harm to us in this way than the French. We can see the difference marked by the facts of this year and last.

I estimate that there are about 200,000 barrels of herrings annually supplied the French at St. Pierre from this bay; the value of this bait would be 1,600,000 francs. In addition to this they take caplin and squids, the value of which I am unacquainted with.

There are several ice-houses in this neighborhood. American fishing-vessels, I know, avail of these for the preservation of bait, but I cannot say to what extent. I am informed that a larger number of American vessels will next year visit these parts for bait and ice, for which, I understand, arrangements have been made between American captains and residents on these shores.

GEORGE ROSE.

Sworn to before me, at Jersey Harbor, Fortune Bay, this 4th November, 1876.

J. O. FRASER,
Commissioner of Affidavits.

No. 55.

JOHN EVANS, aged 43 years, fisherman, residing at English Harbor, Fortune Bay, N. F., maketh oath and saith that—

I know the fisheries of Newfoundland by following the same for thirty years. I have seen United States fishing-vessels in this neighborhood. A large fleet of such vessels frequent these parts for bait. I should say not less than one hundred sail. These vessels run from about 60 to 100 tons; they came here to purchase bait and did purchase bait. I have sold bait to United States fishing vessels, and have baited altogether some seven or eight vessels, the price being about twenty-five dollars per vessel for each vessel for from 30 to 70 barrels of herring. Newfoundland fishermen catch fish within three miles of the shore. The Newfoundland fishery is an inshore fishery. The caplin, herring, and squid fisheries are inshore fisheries, being taken in the coves and harbors of the coasts. I do not know of a Newfoundland fishing-vessel having

been on a fishing-voyage on the United States coasts. I don't know whether United States fishermen have sold any small fish or other fishery produce in this neighborhood.

About thirty American vessels frequent Fortune Bay in winter for herrings; they purchase these herrings from the residents, and never catch them for themselves. The halibut-fishery followed by the United States fishing-vessels about Pass Island has been abandoned during late years. I have not heard of American fishing-vessels trying to catch fish on the Newfoundland inshore-fishery. American fishing-vessels do refit in this neighborhood when required. I consider that the system followed of barring large quantities of herrings for sale to the Americans does interfere injuriously with the supply of bait for our local fishermen; the spawning of the herring is thus affected, which cannot act otherwise than hurtful to the supply for local purposes. I am of opinion that the supply of fresh bait to the United States fishermen who line the Banks off our coasts therewith, prevents the fish passing into our fishing-grounds, and thus injuriously affects the catch of our people.

I am of opinion that the short catch of codfish on our southwestern coasts this summer has been caused by the United States fishing-vessels fishing on the outer Banks. I can attribute the short catch to no other cause. I know the fish is not on the shores, else it would be caught, as there are all sorts of contrivances for catching fish.

There are conveniences for the supply of ice for preserving bait in this bay; I know of six ice-houses. The United States fishermen avail of such ice for preservation of their fresh bait, but to what extent I cannot say.

The American fishing-vessels bait in this bay four and five times every summer—about a fortnight between each baiting.

his
JOHN + EVANS.
mark.

Sworn before me, at English Harbor W, Newfoundland, November 8, 1876.

J. O. FRASER,
Commissioner of Affidavits.

No. 56.

JOHN ROSE, aged forty-four years, fisherman, residing at Belloram, Fortune Bay, Newfoundland, maketh oath and saith:

I am acquainted with the fisheries of Newfoundland, having prosecuted the same for upward of twenty years. American fishing-vessels have been observed by me in this neighborhood. About forty American fishing-vessels have been baited hereabouts the past season by our fishermen. Over a dozen American vessels were loaded with salt herrings, and over thirty were loaded with frozen herrings. I did not see one-half the American fishing-vessels that I am well informed visited this bay for bait. Among the vessels seen by me I can name the following: W. P. Whitman, W. E. McDonald, Grace L. Fears, Moro Castle, Magic, Eben Parsons, Eptstar (Grant), schooner over 100 tons (Hodgeson, master), Moses Adams, Reporter, schooner (Wm. Collins, master), Ruth Grove, Frank Butler, M. L. Wetherall, Mary Carlisle, Bellerophon, and Carry S. Doyle, of Gloucester; Thomas Rye, about Provincetown; Serene, about Provincetown; schooner (Isaac, master). I have sold bait to several of these American fishing-vessels, but cannot say how much; the price paid for herrings generally is one dollar per barrel.

Newfoundland fishermen catch codfish in this bay within three miles

of the shore; the Newfoundland fisheries are all inshore except the seal fishery. Caplin, herrings, and squids are taken in the coves close to the shore. No Newfoundland vessels that I have heard tell of or know anything about, go fishing on any of the coasts of the United States of America inshore. American fishermen have this year sold what they call small codfish to our people, who did not consider such fish small. I am not informed as to what quantity was sold and purchased, nor what prices were paid.

American fishing-vessels are accustomed to refit in this neighborhood when necessary. There are between 250 and 300 schooners catching bait in this bay to supply French bankers at St. Pierre; the average quantity of bait supplied by each schooner would be about one hundred barrels herrings; they frequently have 400 and 500, and they make each from two to four trips. The quantity of caplin supplied to the French by the schooners referred to by me would be about two hundred hhd. for each schooner. The price paid for herrings thus supplied the French varies from two to thirty francs per barrel, ten francs being a fair average; for caplin, the average would be about ten francs per hhd. There are in this neighborhood great conveniences for preserving ice, which abounds on the ponds close to the salt water; five such ice-houses are erected in this bay which are used to preserve ice for sale to American fishermen, who largely avail of the same for the preservation of fresh bait purchased from our fishermen. The number of American fishermen frequenting these quarters we expect will be largely increased.

JOHN ROSE.

Sworn before me, at Belloram, this sixth day of November, A. D. 1876.

J. O. FRASER,

Commissioner of Affidavits.

No. 57.

PHILIP HUBERT, aged 40 years, subcollector H. M. customs, residing at Harbor Breton, Newfoundland, maketh oath and saith: That I have become acquainted with the Newfoundland fisheries by a residence in the country for twenty-three years and an immediate connection with the fisheries of Newfoundland during all that time.

I have observed United States fishing-vessels in this neighborhood. Last December the following vessels entered at the customs to enable them to sell part cargo, they being engaged on a voyage for the purchase of frozen herrings in Fortune Bay, viz:

S. R. Lane, 72 tons, S. Jacobs, master, Gloucester; General Grant, 86 tons, James Bowel, master, Gloucester; Landseer, 99 tons, P. Malady, master, Gloucester; Mary M., 101 tons, M. B. Murray, master, Gloucester; Crown Point, 103 tons, W. H. Burne, master, Newburyport. I believe there have been fully one hundred and fifty United States fishing-vessels in this bay during the past summer.

In the fall of 1874 and beginning of 1875, I find that twelve United States vessels entered at this port, being engaged on a voyage for the purchase of frozen herrings.

The United States vessels referred to by me as in this bay the present summer came to purchase bait. Not one of these vessels entered at the customs at Harbor Breton. I am of opinion that two-thirds of these vessels have not entered at any customs office in Newfoundland, nor paid light-dues. These vessels came into this bay to purchase bait. One vessel had a seine intending to haul bait, but found it less trouble to purchase.

United States fishing-vessels have fished about Pass Island, and for-

merly made good catches there. Captain Jacobs, of schooner —, is said to have been offered nine thousand dollars for his load taken about Pass Island. American fishing-vessels fishing off and about Pass Island fished for halibut and codfish, but chiefly for halibut. My estimate of the value of their catch is at least equal to ten thousand dollars per annum, and such fishery was conducted exclusively within three miles of our shores. Newfoundland fishermen catch their "voyage" within three miles of our shores, generally about one or two miles from the shore.

The Newfoundland fisheries are peculiarly inshore fisheries.

Caplin, herrings, and squid used for bait are always taken inshore, generally in the coves and harbors along our coasts.

I never heard tell of a Newfoundland fishing-vessel that prosecuted the fishery on the coasts of the United States of America.

American fishermen have sold small codfish in this bay; some vessels sold one hundred quintals, the price ranging from seven to ten shillings per cwt., green.

From thirty to forty American vessels frequent Fortune Bay in winter for the purchase of frozen herrings; they always purchase. The average quantity of frozen herrings taken by each vessel will be from five to eight hundred barrels.

American fishermen do not now fish for halibut about Pass Island as they formerly did, because I believe that that fishery has been exhausted by the Americans. I know of no United States fishing-vessels fishing within three miles of the shore except at and about Pass Island, as already stated.

American fishing-vessels do avail of the privilege to refit their vessels in this bay when they come from the Banks.

I have not heard of American fishing-vessels transshipping cargo in a Newfoundland port.

The supply of bait to United States fishermen has decreased the supply of bait to our local fishermen. There is not the least doubt but that the presence of so large a number of American vessels fishing on the Banks off our coasts, well supplied with fresh bait, largely interferes with and reduces the catch of our local fishermen, and I am of opinion that the scarcity of fish along our southwest coast this summer has been mainly caused by the United States fishing-vessels fishing on the outer Banks. The quantity of bait annually sent to St. Peters from Fortune Bay I estimate as follows:

About thirty thousand barrels herrings and about ten thousand hog-heads caplin. The quantity of squid supplied the French I cannot state.

The value would be about sixteen thousand pounds, annually, for bait supplied the French.

There are five or six ice-houses in this neighborhood where ice is stored for sale to the Americans to preserve fresh bait.

American fishing-vessels each make two and three trips to the Banks, and take each trip from forty to sixty barrels fresh herrings per vessel, for which they pay from fifty to one hundred cents per barrel. These American fishing-vessels take each from three to five tons ice per trip for preservation of their bait, for which they pay three and one-half dollars per ton.

PHILIP HUBERT,

Subcollector.

Sworn before me at Harbor Breton, Newfoundland, this fourteenth day of November, 1876.

J. O. FRASER,

Commissioner of Affidavits.

No. 58.

GEORGE T. R. SNELLGROVE, aged 52 years, subcollector, residing at St. Jacques, in Fortune Bay, Newfoundland, maketh oath and saith: That the statement attached, marked A, contains the names of American vessels loaded in 1876 with frozen herrings and salted herrings at Fortune Bay, Newfoundland, as far as I am personally aware of; that the statement attached marked B contains the names of American fishing-vessels visited by him in 1876, and known by him to have called at this neighborhood for the purpose of procuring bait.

I am aware that a large number of American schooners in addition to those named by me have called at the various ports of this bay during the past year for bait; I think quite as many as I have named. Bait was purchased by these American fishermen from Newfoundland fishermen. I have to complain that American vessels frequenting these parts studiously try to evade payment of light-dues during the fishing season, comparatively few of them having paid, I being without means to enforce payment.

GEO. T. R. SNELLGROVE, *Sub-Collector*.

Sworn before me at St. Jacques, Newfoundland, this sixth day of November, A. D. 1876.

J. O. FRASER, *Commissioner of Affidavits*.

A.

Statement of American vessels, as far as ascertained, loaded with frozen and salt herrings in Fortune Bay, between Borey and Long Harbor, 1876.

Name of vessel.	Master.	From whence.	Barrels frozen herring.	Barrels salted herring.
Bunker Hill	John McDonell	Gloucester		1,200
Cornelius Stoker	Currey	Salem		900
Sattagan	Gubtill	Gloucester		500
S. R. Lane	Jacobs	do	450	
Ontario	Jph. Bouie	do	600	
Martha C	Martin	do	550	
Rattler	McPherson	do	500	
Bellerophon	W. McDonald	do	600	
Maracabo	Nicholson	Boston	200	900
H. M. Rogers	Warren	Gloucester	500	
J. P. Whitman	J. McDonell	do	675	
Ada K. Dawson	Cunningham	do	700	
W. E. McDonell	William McDonald	do	550	
Hereward	Pennington	do	450	
Laura Nelson	Williams	do	450	
J. H. Sawyer	Orchard	do	400	
Grace L. Fears	R. McDonell	do	450	
Charles C. Warren	Peter Smith	do	400	
General Grant	James Bowie	do	500	
Col. Aysworth	Penticost	Salem		700
Concord	Deygo	Gloucester	(*)	
Landseer	Malady	do		1,000
Ed. E. Webster	Nute	do	(*)	
Moro Castle	Noas	do	(*)	
Fred. P. Fry	Sidney Smith	do	(*)	
Mary E. Chisholm	Chisholm	do	(*)	
Charles P. Thompson	Ryan	do	(*)	
Wild Fire	Bearse	do	(*)	
Boanza	Smith	do		1,800
Seth Stockbridge	Smith	do		950
Reporter	Balanzon	do	(*)	
Eben E. Parsons	Dagle	do	(*)	
Viking	Stapleton	do	(*)	
Moses Adams	Anderson	do	320	
Flash	McGuire	do	(*)	
Bell Bartlett	Hutchings	do		750
Crown Point	Byrnes	do	(*)	
Mary M	Murray	do	(*)	
Bunker Hill	McDonell	do		1,000
Cornelius Stokum	Kirby	do		1,400
Mattie A. White	Battelle	Boston		1,500

* Failed to get load.

NOTE.—Dora S. Pringle, Minor, master, hails from Boston. The shipper belongs to Gloucester; his name, H. A. Babston. And cleared and sailed for Gottenburg, in Sweden, with 4,000 barrels pickled herrings.

GEORGE T. R. SNELLGROVE,
Subcollector.

Sworn before me at St. Jacques Bay, Newfoundland, this 6th day of November, A. D. 1876.

J. O. FRASER,
Commissioner of Affidavits.

B.

Statement giving particulars, as far as ascertained, of American fishing-vessels and their cargoes visited by me in Fortune Bay, 1876.

Date.	Vessel's name.	Owners.	Master.	Tonnage.	From whence.
Apr. 10	W. T. Smith	Daniel Sayard	Charles Keen	82	Gloucester.
23	J. P. Whitman .....	.....	James McDonald	94	Do.
24	Moro Castle .....	.....	Loren Nans	89	Do.
26	Grace C. Hadley	C. D. Pittingale & Co.	Edwin Hall	67	Do.
May 4	Tragabizanda	J. Warren Wonson	William Mulloy	68	Do.
4	Edw. E. Webster	C. Nate, part owner	Charles Nate	99	Do.
10	Grace L. Fears .....	.....	R. McDonald	88	Do.
12	Elisha Crowell .....	.....	William Wells	67	Do.
15	W. E. McDonell	W. McDonell	William McDonell	98	Do.
15	Proctor Bros.	Harvey Knowlton	Edw. Trevoey	77	Do.
20	Bellerophon .....	.....	— Goodwin	85	Do.
25	Ocean Belle	Addison, Sett & Co.	Jno. Thompson	67	Do.
25	Mary Carlyle	William M. Fleet	W. H. Greenleaf	66	Do.
29	J. P. Whitman .....	.....	J. McDonald	94	Do.
29	Grace C. Hadley	C. D. Pittingale & Co.	Edwin Hall	67	Do.
29	Josephine .....	.....	— Wilson	50	Beverly, Ma.
31	Edw. E. Webster	Charles Nate	Charles Nate	99	Gloucester.
31	Viking .....	.....	Ed. Stapleton	73	Do.
31	N. H. Philips	William McDonell	W. McDonell	66	Do.
31	J. W. Roberts	J. W. Bradley	P. Conolly	73	Do.
June 1	Eben Parsons .....	.....	Charles Dagle	91	Do.
4	Martha C. ....	.....	Charles Martin	79	Do.
4	Elisha Crowell .....	.....	William Wells	67	Do.
4	Charles P. Thompson .....	.....	.....	73	Do.
4	Laura Nelson .....	.....	William Hall	89	Do.
5	Moses Adams .....	.....	J. Anderson	100	Do.
8	Frank A. Williams .....	.....	Hugh A. Lyons	66	Do.
8	Lizzie B. Knight .....	.....	W. E. Morrissey	68	Marble Head.
9	Herman Babson	Babson & Co	Charles Lawson	100	Gloucester.
10	Bunker Hill .....	.....	J. McDonell	100	Do.
10	W. E. McDonell	W. McDonell	W. McDonell	98	Do.
16	— Angus .....	.....	— Kelly	83	Do.
16	Webster Saunders .....	.....	Matthew McDonnell	75	Do.
16	Daniel Webster .....	.....	A. Wilkinson	60	Rockport, Me.
21	J. P. Whitman .....	.....	J. McDonell	94	Gloucester.
24	N. H. Philips	W. McDonell	W. McDonell	66	Do.
26	Frank A. Williams .....	.....	Hugh A. Lyons	66	Do.
26	Lizzie B. Knight .....	.....	W. E. Morrissey	68	Marble Head.
27	Henry L. Philips .....	.....	.....	64	Gloucester.
27	Triton .....	.....	George H. Curtis	71	Do.
28	Barracouta .....	.....	J. Newbury	68	Do.
28	Isaac Patch .....	.....	F. Carrol	72	Do.
28	Ada K. Dymond .....	.....	Ed. Walters	94	Do.
28	John F. Presson .....	.....	Charles Crew	92	Do.
28	Sterling .....	.....	J. Boen	62	Do.
28	Peter D. Smith .....	.....	Daniel McFayden	69	Do.
29	Magio .....	.....	E. M. McLaren	67	Do.

GEO. T. R. SNELLGROVE,
Subcollector.

Sworn before me at St. Jacques, Fortune Bay, N. F., this sixth day of November, 1876.

J. O. FRASER,
Commissioner Affidavits.

No. 59.

Personally appeared before me, Philip Hubert, esq., Stipendiary Magistrate at Harbor Breton, Fortune Bay, this twenty-third day of May, one thousand eight hundred and seventy-seven, Mr. HENRY GIOVANNINNI, of Rencontre, Fortune Bay, merchant, who upon oath voluntarily saith :

I have been carrying on trade in Newfoundland over twenty years. My business calls me to many harbors along the coast, principally from Cape La Hune to Cape Chapeau Rouge. I have occasion to transact some business with United States vessels very often. I can affirm that at least twenty-five United States vessels shipped herrings, mostly in a frozen state, from first of January to last of February of present year (some of them made two trips during that time), from Fortune Bay for ports in United States ; they each carry from 400 to 600 barrels of herring when frozen, and from 800 to 1,200 barrels when salted. Since last of April to present date at least thirty United States fishing-vessels have arrived in Fortune Bay for bait (herring) and ice for their own use. Some have already made two trips to the Banks, and are making five trips ; each vessel takes from 30 to 50 barrels bait each trip, and from three to five tons of ice. I can affirm that our (English) fishermen suffer and lose much for the want of bait in the summer season, the cause of which they attribute to the large numbers of seines which are continually employed hauling for those vessels. One United States vessel, now at St. Jacques, Fortune Bay, is shipping herring for United States ; she will carry 6,500 barrels when loaded. I am able to state that it is the general opinion in Fortune Bay that if the usual numbers of United States vessels continue to draw on Fortune Bay for their bait, that in a very few years there will be none, either for our fishermen or them.

HENRY GIOVANNINNI.

Sworn before me, at Harbor Breton, Fortune Bay, Newfoundland, this 23d of May, 1877.

PHILIP HUBERT,
Stipendiary Magistrate.

No. 60.

JAMES PHILIP SNOOK, aged 29 years, preventive officer, residing at Fortune, in the district of Burin, Newfoundland, maketh oath and saith that—

I have observed a number of United States fishing vessels in this neighborhood and its proximities, probably from sixty to seventy, during the past summer. I can only name a few of these vessels. (See paper marked Fortune A.) The vessels named in paper marked Fortune A, with P before their names, denotes that these vessels paid light dues ; those marked G denotes that these vessels paid light dues elsewhere ; those marked O denotes that these vessels did not pay light dues, they refusing to do so ; the master of Gertie F. Foster—Campbell by name—especially, was very abusive and violent, he not only refusing to pay his light money, but also counseling the master of the schooner Victor and David M. Hilton not to pay their light dues.

These vessels all came into this bay to purchase fresh bait, and they did procure such bait. My visit to some of these United States vessels was on the occasion of their second trip from the Banks, they not having come on this side of the bay on their first trip.

United States fishing vessels have fished on the inshore fishing-

grounds, but I cannot give particulars further than that I have seen them so fishing off Danzig Cove, near South Point of Fortune Bay.

I estimate the bait annually sold at St. Pierre, by fishermen of this harbor, to be as follows: 5,000 barrels herrings, valued at 40,000 francs; 10,000 hogsheads caplin, valued at 60,000 francs. Besides this there is an average destruction of herrings—thrown overboard—annually, of about ten thousand barrels herrings, being found unsalable at St. Pierre.

JAMES P. SNOOK,
Preventive Officer, Fortune, Newfoundland.

Sworn before me, at Fortune, Newfoundland, this 27th November, 1876.

J. O. FRASER,
Commissioner of Affidavits.

FORTUNE A.

Names of vessels of the United States of America in Fortune Bay for the purchase of fresh bait, boarded by me.

Names.	Masters.	Tons.	Where belonging.
O. W. F. Foye	L. W. Smith	70	Gloucester.
G. Sygnet	Unknown		Unknown.
G. Proctor Brothers	do		Do.
G. Lizzie B. Knight	do		Do.
G. Frank A. Williams	do		Do.
O. Joshua S. Sanbourne	do		Do.
P. Wachusett	Zad Hawkins	79	Gloucester.
O. George W. Stetson	John Daniels	Unknown.	Do.
O. Gertie F. Forster	— Campbell		Do.
O. Victor Nat	— Latham	70	Do.
O. David M. Hilton	Ozas Pinkham	66	Do.
P. Chester R. Lawrance	James McDonald	90	Do.
O. Gail Hamilton	M. Stephens	69	Do.
O. Carrie S. Dagle	J. F. Coombes	74	Do.
O. Mary Carlisle	Will. Grimleth	63	Do.
G. Barracounta	John Newbury	68	Do.
G. Triton	G. W. Curtis	71	Do.

JAMES P. SNOOK,
Preventative Officer, Fortune, Newfoundland.

Sworn before me, at Fortune, Newfoundland, this 27th November, 1876.

J. O. FRASER,
Commissioner of Affidavits.

No. 61.

WILLIAM GEORGE BENNETT, fisherman, aged 26 years, residing at Fortune, Newfoundland, maketh oath and saith that—

I have become acquainted with the fisheries of Newfoundland by being actively engaged in their prosecution since I was sixteen years of age. I have seen United States fishing-vessels passing this neighborhood, going up Fortune Bay and elsewhere. The number seen by me the past summer was over thirty, but I do not know their names. These vessels came into the bay to purchase fresh herrings for bait, which they procured. Our crew baited one of these vessels this summer; last summer we baited three. Each vessel took twenty-five and thirty barrels herrings, for which they paid about twenty dollars each. The Newfoundland fishery is an inshore fishery, being generally prosecuted close along shores.

The caplin, herring, and squid fisheries used for bait are inshore fisheries. I never knew of a Newfoundland vessel having engaged on a fishing voyage on any of the coasts of the United States of America. There are from forty to fifty American vessels frequenting Fortune Bay in winter, for the purchase of fresh herring to freeze, and when frozen

to be freighted by these American vessels to the United States. Americans purchase these herrings from our people. I believe the supply of bait to United States vessels decreases the supply of bait to our local fishermen. I believe that if the practice now being pursued of "bar-ring" large quantities of herrings to be sold as bait to United States is suffered to be continued that the supply of bait to fishermen in this bay will speedily be destroyed.

I do not doubt but that the large number of United States vessels fishing on the Banks, with fresh bait, tends greatly to reduce the catch of our people along shore, and if continued, as at present, will starve local fishermen. I believe that the short catch by our people the past summer along our southwest coasts is chiefly caused by Americans fishing on the outer Banks as aforesaid.

Signed by his mark, he having sore thumb.

WM. GEORGE ^{his} + BENNETT.
mark.

Sworn before me, at Fortune, this 27th day of November, 1876.

J. O. FRASER,
Commissioner of Affidavits.

No. 62.

SAMUEL GEORGE HICKMAN, aged 36 years, planter, residing at Grand Bank, Newfoundland, maketh oath and saith that—

I am acquainted with the fisheries of Newfoundland by being a fisherman myself the past twenty-five years. I have annually observed United States fishing-vessels in this bay, but especially last year, when there were about three hundred of such vessels in the bay; I name among these, Lizzie V. Knight, William Morrissey, master; Proctor Bros., Edward Trevo, master, and a large number of others too numerous to delay naming, my time being fully occupied.

These vessels came into this bay to purchase fresh herrings for bait, which they purchased from our fishermen. I have sold United States vessels fresh bait; I have, with others under me, supplied over a hundred United States vessels with bait from first to last; each vessel would take about 40 to 60 barrels, for which they would pay from \$20 to \$30.

I have seen our shore surrounded by American fishermen fishing for halibut and codfish, but cannot say that all these vessels were inside three miles of a line from headland to headland. I have frequently seen United States vessels fishing between Pass Island and Brunette Island; in some instances these vessels have been fishing up the bay among the cliffs. I cannot speak of the quantity or value of their catches, but I do know that they destroyed the halibut fishery about Pass Island, and largely damaged the cod-fishery of Fortune Bay. One of their captains told me "it was no use for our fishermen to go fishing after United States fishermen."

Newfoundland fishermen catch codfish generally within two miles of the shore, there being exceptional places and instances where they go from six to nine miles off the coast. The caplin, herring, and squid—used for bait—are inshore fisheries, being taken in coves and harbors along the coasts, and for such purposes are never prosecuted outside three miles.

I never knew of a United States vessel prosecuting a fishing voyage on any of their coasts. I believe United States fishermen do sell codfish

in this neighborhood to our people, sometimes at St. Pierre, and sometimes in the harbors of the bay.

From forty to fifty United States vessels regularly visit Fortune Bay in winter to purchase herrings for freezing ; they have always purchased their load of herrings except when prevented by ice in the bay ; their load runs from six hundred to seven hundred barrels each, for which they pay our fishermen nominally one dollar, but allowing for measure exacted, seventy-five cents per barrel will be a fair average of the price paid. These Americans have not *caught* any herrings as yet, because the people of the bay would thereby be annoyed, and because Americans can purchase cheaper than cost of catching by themselves. I do not know of Americans fishing for turbot in this neighborhood. I am certain that the supply of bait to United States fishermen has decreased the supply of bait to our local fishermen. I estimate there are eighty herring seines belonging to this bay engaged in hauling bait for the Americans, and that fully eighty seines belonging elsewhere are also engaged in the same service. Bait for Americans commences to be hauled about 1st to 10th of May, and ends in August. American vessels come in from the Banks once every fortnight or three weeks, and take fresh bait, averaging from forty to sixty barrels herrings. During the baiting season as aforesaid it very generally happens that many seines will have large quantities of herrings inclosed—say from five hundred to fifteen hundred barrels, and retained as long as two months, sometimes herrings rotting where inclosed, and where washed on shore impregnating the air through all the stages of putrefaction. These large seines “bar” herrings wherever they meet them—in coves, creeks, and along shore ; and, during such inclosures, it stands to reason that so great a number of *captives* lessens the numbers *free*, and injures net owners ; it is a fact that, during this barring, herrings do not mesh in nets as at other times.

I am of opinion that the presence of the large number of United States vessels, fishing on the Banks off our coasts, supplied with bait, interferes with and is the main cause in reducing the local catch ; and that the scarcity of fish along our southwest coast this year has been caused by the Americans fishing on the outer Banks.

The average catch of fishermen of this harbor, this year, will be about fifteen quintals per man. The catch in previous years was from fifty to seventy quintals per man, but more generally seventy would be nearer correctly stated. The price of fish this year, averaging all round, would be about five dollars and twenty cents per quintal.

The bait sold at St. Pierre, by the people of this harbor, will be about 5,000 or 6,000 barrels herring, value, 45,000 francs ; 10,000 hogsheads caplin, value, 60,000 francs ; and about ten thousand barrels herrings thrown away being unsalable ; also from five to six hundred hogsheads caplin.

SAMUEL G. HICKMAN.

Sworn before, at Grand Banks, this 24th November, 1876.

J. O. FRASER,

Commissioner of Affidavits.

No. 63.

HENRY BENNING, aged 37 years, subcollector Her Majesty's customs, residing at Lamalin, Newfoundland, maketh oath and saith :

That I have become acquainted with the Newfoundland fisheries by connection therewith as supplier and otherwise during eight years.

I have observed United States fishing-vessels in this neighborhood, but can only name two, namely, in the year 1874: D. E. Woodbury, D. E. Collins, 65 tons, Gloucester; G. P. Whitman, J. McDonald, 94 tons, Gloucester.

These vessels came here to purchase fresh bait, which they procured, and then sailed away for the Grand Banks. No American vessels have fished in this immediate neighborhood, that I am aware of.

The Newfoundland fishery is an inshore fishery. The caplin, herring, and squid fisheries, used for bait, are all inshore fisheries. The caplin is taken in the landwash, herrings frequently so, and squid from half to quarter of a mile from the shore, but generally in the coves and harbors. I never heard of a Newfoundland vessel prosecuting or attempting to prosecute any fishery on any of the coasts of the United States of America.

American fishermen have not sold any small codfish in this neighborhood. From thirty to fifty American vessels frequent Fortune Bay in winter for the purchase of fresh herrings, to be frozen and conveyed to the United States, viz, Boston, New York, Philadelphia, and Baltimore. Their cargoes consist of from six hundred to one thousand barrels. The price paid, is about a dollar per barrel, and when very scarce, one and one-half dollars per barrel.

I am positive that the presence of the large number of United States vessels fishing on the Banks off our coast, using fresh bait, greatly reduces the catch of our local fishermen, and that the short catch of our people last summer is owing to this cause.

The bait sold at St. Pierre by schooners belonging to this harbor, I estimate as follows, per annum:

Herrings taken at Fortune Bay, viz, 3,400 barrels herrings, value, 23,800 francs; 7,000 hogsheads caplin, taken at Lamaline, 70,000 francs.

The average catch of codfish per man, previous to the last two years, has been from sixty to eighty quintals; last year it was about twenty quintals; and the present year it has been fifteen quintals per man.

HENRY BENNING,
Subcollector.

Sworn before me, at Lamaline, this 1st day of December, 1876.

J. O. FRASER,
Commissioner of Affidavits.

No. 64.

JAMES REEVES, aged 68 years, planter, residing at St. Lawrence, Newfoundland, maketh oath and saith—

That I have become acquainted with the Newfoundland fisheries by prosecuting the same during the past forty-eight years. I have seen a large number of United States fishing vessels in Fortune Bay and elsewhere, but cannot name any, my desire was to keep clear of them and they to keep clear of us. These American vessels visit those quarters for bait, which they generally purchase from our fishermen, which they generally procure. I have baited two United States vessels with fresh herrings; can't remember their names. Newfoundland fishermen generally fish within two mile of the shores. The caplin, herring, and squid fisheries used for bait by Newfoundland fishermen are inshore fisheries, being followed in the coves and harbors along the coast. I never heard of a Newfoundland vessel prosecuting any fishing voyage on any of the coasts of the United States of America, and don't believe our vessels ever go on such a voyage.

From forty to fifty American vessels frequent Fortune Bay in winter for herrings to freeze, and freight to Gloucester, New York, and Boston; these herrings they always purchase from our people. Americans do not fish off Pass Island, they having exhausted that fishery. American fishing vessels have been seen fishing off Cape St. Mary's; I have not seen any fishing in this neighborhood.

The supply of bait to United States fishermen shortens the supply of bait to our local fishermen. I am of decided opinion that the large number of United States vessels fishing on the Banks off our coasts shortens the catch of our local fishermen, as these Americans are well supplied with fresh bait which attracts the fish to the ground where United States fishermen fish. It has been remarked that when the great body of American vessels leave the Banks in the fall of the year then the fish becomes more abundant than before.

I am of opinion that the scarcity of fish the past summer along our southwest coasts is owing to United States fishermen fishing on the Banks of our coasts.

JAMES REEVES.

Sworn before me at St. Lawrence this fifth day of December, 1876.

J. O. FRASER,
Commissioner of Affidavits.

No. 65.

HUGH VAVASSEUR, aged 60 years, preventive officer, residing at St. Lawrence, Newfoundland, maketh oath and saith that—

I have resided at St. Lawrence during the past thirty-six years, during all which time and for ten years previously at Gaultois and Harbor Breton. I was closely connected with the fisheries of this country. I have seen a number of United States fishing-vessels in this neighborhood. I can only give particulars of the following, viz:

Name.	Master.	Tonnage.	Where belonging.
1876.			
Ernest F. Norwood	Natl. Greenlief	74	Gloucester.
Gertie Lewis	Joseph W. Prout	72	Do.
Carrie S. Dagle	J. F. Coombes	74	Do.
1875.			
Tragabigzanda	William Mulloy	68	Do.
Lizzie B. Knight	William Morrissey	67	Do.
John Dodge	Silvan Frost	83	Do.

These vessels, among the many that call at this harbor, were the only vessels that paid light-money. The above-named vessels, with the other United States fishing-vessels that called at this harbor, came to procure bait, which they procured principally by purchasing from our people; but in several instances they jigged squids for themselves on the jigging-grounds used by our people, their operations being very hurtful to local fishermen from the noise and turmoil of their dories and crews, which drive the squids from the ground.

Newfoundland fishermen catch codfish generally within 2 miles of the shores, the only exceptions being on the west coast, where fishermen sometimes fish off from 6 to 9 miles from the shores. The caplin, herrings, and squid fisheries, for the purposes of bait, are all inshore fisheries, and are never prosecuted farther than a half a mile from the shores,

being invariably prosecuted in the coves and small harbors along the coasts.

I never heard of a Newfoundland vessel prosecuting any fishery on any of the coasts of the United States of America. American fishermen have not sold any small codfish or other fishery produce in this neighborhood.

American vessels avail of the privilege to refit in our harbors, and have done so in this harbor. I remember that the Tragabigzanda did so refit his vessel at this port. It is quite certain that the supply of bait to United States fishermen decreases the supply of bait to our local fishermen. I am well aware that the presence of the large number of United States fishermen fishing on the outer banks off our coasts well supplied with fresh bait greatly interferes with and reduces the catch of our local fishermen. Codfish strike our shores in quest of bait; and if they meet fresh bait on the banks they will not pass it, but will remain there as long as fresh bait is to be had. I do think that the scarcity of codfish along our south and southwest coasts the past summer has been caused by Americans fishing on the outer Banks. Previous to the last three years the average catch of codfish in this harbor was eighty qtls per man; during the last two years it has not exceeded twenty qtls. per man. The quantity of bait annually exported by craft belonging to St. Lawrence and Lawn will average three thousand hhd., for which the average price would be twenty-four thousand francs; and herrings taken in Fortune Bay by these same craft will average three thousand barrels herrings, realizing eighteen thousand francs. There are no ice-houses at this harbor for the preservation of fish-bait.

HUGH VAVASSEUR,
Preventive Officer.

Sworn before me, at St. Lawrence, this fifth day Dec., 1876.

J. O. FRASER,
Commissioner of Affidavits.

No. 66.

THOMAS WINTER, aged 61 years, subcollector H. M. customs, residing at Burin, Newfoundland, maketh oath and saith:

I am acquainted with the fisheries of Newfoundland, by observation, during a residence in this district for upward of twelve years.

I have observed a large number of United States fishermen in this neighborhood, about sixty in 1875 and twelve or thirteen the past summer. Of those in this neighborhood in 1876 I can name the following, viz:

Name.	Master.	Tonnage.	Where belonging.
Gleaner.....	Lyons	63	East Gloucester.
Eptstarr.....	R. C. Grand.....	70	Gloucester.
David W. Hilton	Pinkham	59	Do.
Massasoit.....	Gorman	73	Do.
Mary Carlyle	Greenleaf	66	Do.
Viking	E. Stapleton	73	Do.
Addison Center.....	James Jamieson	74	Do.
Mist	McCarty	Do.	Do.
Morro Castle		89	Do.

These vessels came here for ice and bait.

Every United States vessel calling in this neighborhood systematically arranged to avoid the customs authorities, and their captains and

crews are generally most insulting and offensive to the officers who visit them, the captains outrageously so. Without sufficient force it is wholly impossible to enforce an observance of the customs laws by United States fishing-vessels frequenting these coasts.

The light-dues paid here by United States vessels is generally paid by orders. In one instance they have sold fishery produce for cash, which they said they required to purchase bait.

T. WINTER,
Subcollector.

Sworn before me at Burin, N. F., this 8th day of December, 1876.

J. O. FRASER,
Commissioner of Affidavits.

No. 67.

PHILIP PINE, aged 35 years, planter, residing at Burin Bay, Newfoundland, maketh oath and saith:

I am acquainted with the fisheries of Newfoundland by following the same and supplying therefor since I was seventeen years of age.

I have observed a great number of United States fishing-vessels in this neighborhood, there being as many as forty sail here at one time. These vessels came here for bait and for ice, which they procured by purchasing from our people, it being stated that in some instances their crews mixed with our people in hauling bait. These United States fishermen sometimes jig squids for themselves; I have seen them doing so at jigging-coves in this neighborhood.

The past year I supplied ice to about forty United States vessels, the quantity being from two tons to five; in all, I supplied over one hundred tons. The year previous, the number of United States vessels in this neighborhood was larger than the year past, and the quantity of ice taken was greater. I can only name the following captains and vessels among those here last year:

	Master.
White Fawn.....	Nickleson.
Vessel forgotten.....	Lowe.
Vessel forgotten.....	Campbell.
Flying Scud.....	_____
Fair Sailer.....	_____
Vessel not named.....	Hennessey.
Vessel not named.....	Hall.
Vessel not named.....	O'Brien.
C. F. Butler.....	_____
P. L. Whitten.....	_____
G. J. Tar.....	_____

In 1876 I suppld ice to the following United States vessels, among others:

Schooner Haywood.....	Captain Greenleaf.
Schooner Glina.....	Captain Lyons.
Schooner _____	Captain Noss.
Schooner _____	Captain Gorman.
Schooner _____	Captain Grant.
Schooner _____	Captain Thompson.
Schooner _____	Captain Pinkam.
Schooner _____	Captain Kelly.
Schooner _____	Captain Trevoy.
Schooner _____	Captain Garden.
Schooner _____	Captain Lennox.
Schooner J. Jamison, or.....	Captain J. Jamison.
Schooner E. R. Nickleson.....	_____

These particulars are merely memorandums from my note-book, made when the captains of these United States vessels ordered ice or were supplied therewith; I kept no particular register.

Newfoundland fishermen generally catch codfish within two miles of the shore; the Newfoundland fishery is an inshore fishery.

The caplin, herring, and squids, used for bait, are taken along shores only, and are never taken at a distance of three miles off, except in isolated instances, when fishermen belonging to this neighborhood have taken squids on Burin Bank.

I never heard of a Newfoundland vessel having engaged in prosecuting a fishing-voyage on any of the coasts of the United States of America.

I believe United States fishermen have sold small fish in this neighborhood, but I cannot state as to quantity.

United States vessels do refit in this neighborhood. I have had a draft for cost of outfit to them by myself.

The supply of bait to United States fishermen by our people tends to decrease the supply of bait to our own people; an instance occurred last season at Corbin Island Cove in the last of the caplin, when a joint crew of Americans and our people "thrashed" the cove for the Americans, leaving our own people without bait and idle in consequence, which resulted in great loss to them. I believe that the presence of the large number of United States fishermen fishing on the Banks off our coasts, and well supplied as they are with fresh bait, greatly reduces the catch of our local fishermen, and am of opinion that the short catch of codfish the past summer along our south and west coasts has been caused by the "bleeding process" of the Americans on the Banks off our coasts.

PHILIP PINE.

Sworn before me at Burin Bay this eighth day of December, 1876.

J. O. FRASER,

Commissioner of Affidavits.

No. 68.

WILLIAM COLLINS, aged forty-two years, planter, residing at Burin, Newfoundland, maketh oath and saith that—

I have become acquainted with the fisheries of Newfoundland by being engaged in their prosecution since I was fourteen years of age.

I have observed a number of United States vessels in this neighborhood; there were upwards of twenty this year; last year there were upwards of 40; the difference between the two years, I believe, is owing to the fact that this year a larger number of these vessels went into harbors along the southern coast for bait.

This year, at Cape St. Mary's, two or three American fishing-vessels came in and took fresh caplin for bait, which they purchased. I have not seen them otherwise fishing.

Newfoundland fishermen generally catch codfish within one and two miles from the shore. The Newfoundland fishery is an inshore fishery. The caplin, herring, and squid used for bait are all inshore fisheries, taken in coves close to land. I never heard of a Newfoundland vessel or crew engaging in a fishing voyage on any of the coasts of the United States of America.

American fishermen do sometimes fish on the inshore fishing-ground off Cape St. Mary's. I have seen as many as three of these vessels fishing there.

I do consider that the supply of bait to United States fishermen de-

creases the supply of bait to our local fishermen. They engage our people, who sweep the coves, and frequently leave nothing behind them.

I believe that the presence of the large number of United States vessels fishing on the Banks off our coasts, and supplied with fresh bait, greatly interferes with and reduces the catch of our local fishermen; and that the short catch of codfish the past summer along our south and west coast is owing chiefly to their operations. The quantity of bait sent to St. Pierre from this harbor is small, but there are thirty craft engaged in supplying bait to the French—chiefly from Fortune Bay, from where some 15,000 barrels herrings are taken to St. Pierre by vessels of this harbor; the value of this bait would be about thirty thousand francs; a third of the above quantity annually is thrown overboard, being unsalable at St. Pierre in seasons of abundance. There is one ice-house at this harbor where ice is kept principally, and almost exclusively, for sale to United States vessels for the preservation of fresh bait. A number of United States vessels did purchase ice at this harbor the past season, but I cannot give particulars.

WILLIAM COLLINS.

Sworn before me at Burin this sixth day of December, A. D., 1876.

J. O. FRASER,
Commissioner of Affidavits.

No. 69.

OWEN PINE, aged 67 years, planter, residing at Burin Bay or Inlet, Newfoundland, maket oath and saith that—

I have become acquainted with the fisheries of Newfoundland by following the same in all its branches, since I was fourteen years of age.

I have seen from ten to fifteen United States fishing-vessels at a time in this neighborhood. They came for bait and ice, which they purchase in general. I have seen them catch bait for themselves in our harbors. I believe the supply of bait to United States fishermen decreases the supply to our local fishermen.

I am clearly of opinion that United States fishermen on the Banks off our coasts, supplied with fresh bait, greatly reduces the catch of codfish by our local fishermen, and believe that the short catch the past summer along our south and west coasts is mainly owing to their presence on the outer Banks off our coasts. We know that they line the Banks facing these shores, with fresh bait, and that while confish can get such bait on the Banks they will not pass toward our shores in quest of what they can get on the Banks. The increase of American fishermen on the Banks has been remarkable by a decrease of codfish along our shores.

OWEN PINE.

Sworn before me at Burin Bay, N. F., the 8th December, 1876.

J. O. FRASER,
Commissioner of Affidavits.

No. 70.

RICHARD PAUL, aged 40 years, fisherman, residing at Burin Bay, Newfoundland, making oath and saith:

I know the fisheries of Newfoundland by having prosecuted the same for over 25 years. I have observed a number of United States fishing-vessels in this neighborhood; they are all the time passing backward

and forward; over seventy sail of these vessels passed this neighborhood the past seasons. Not being particularly connected with these vessels, I took no note of their names. I know they came to purchase ice and bait and jig-squids, when they could. I have seen them many times taking squids in the coves close to shore, within one-eighth mile of the shore. These vessels were supplied with ice and with bait when to be had. Excepting squid bait, they purchase other bait from our people, and in part, also, they purchase squid bait when they cannot catch enough for themselves.

Newfoundland fishermen generally catch codfish within two miles of the shores, beyond which distances catches are exceptional.

The caplin, herring, and squid used for bait are all inshore fisheries, taken almost solely in the coves close to shore. I never heard of a Newfoundland vessel engaged on a fishing voyage on any of the coasts (inshore or within three miles) of the United States of America.

American fishermen have sold fish and oil in this neighborhood. I only know of their selling thirty-seven quintals at 7s. per quintal, and seventy gallons cod oil at half a dollar. I understand from their statements the past season, that hereafter they intend to sell to our people all the codfish they catch under twenty-two inches in length.

I am of opinion that the supply of bait to United States fishermen decreases the supply of bait to our local fishermen. I am of decided opinion that the presence of the large number of United States fishing-vessels, well supplied as they are with fresh bait, fishing on the Banks off our coasts, interferes with and tends greatly to reduce the catch of our local fishermen.

Americans on the Banks are known to fish generally on the eastern part of the Great Bank, from whence the fish works westerly towards our shore. When we hear of fish plenty to the eastward of us, we always reckon on a good spurt, as fish work westerly this side of the island. Such has been the experience of our fishermen until United States vessels began prosecuting the fishery on the Banks, the result of which has been to keep the fish from coming in towards our shores. We used formerly to get French hooks in the mouths of the fish occasionally; but now we frequently get American hooks instead and rarely a French hook—not one in ten we used to get.

I am of decided opinion that the short catch the past summer along our southwest coast has been caused principally by United States fishermen on the outer Banks as aforesaid. The catch of codfish by fishermen in this neighborhood, previous to the last three years, would average fifty quintals per man; the average in 1876 will not reach thirty quintals per man. The falling off we can attribute to no other cause than American operations in fishing on the Banks.

The supply of squids sold at Saint Pierre by fishermen from this neighborhood will be about five hundred thousand; the average price per thousand will be twenty francs. This supply to the French does little injury to the codfishing compared to the supply of bait to the Americans, who use fresh bait, whereas the French salt bait. The French generally work more within a circle; the United States vessels move about following the fish. They have vessels acting as scouts from our shores to the Banks, with information as to where ice and fresh bait can be had.

RICHARD PAUL.

Sworn before me at Burin Bay, the fifteenth day of December, 1876.

J. O. FRASER,

Commissioner of Affidavits.

No. 71.

FRANCIS BERTEAU, aged 53 years, merchant, residing at Burin, Newfoundland, maketh oath and saith that—

I have become acquainted with the fisheries of Newfoundland by carrying on the trade of the country for thirty years.

I have observed from forty to sixty United States fishing vessels in this neighborhood each year during the past three years. Having had no immediate connection with them I cannot name any of these vessels. I have not sold any bait to them, having nothing to do with the bait trade. United States fishing vessels have fished for codfish off Cape St. Mary's within three miles of the shore, where, on one occasion, one of our fishing crafts was fouled near the Bull and Calf by a United States fishing vessel.

Newfoundland fishermen catch codfish generally within two miles of the shores. The caplin, herrings, and squid fisheries used for bait are all inshore, being taken in the coves along the coasts and harbors, and is never taken more than three miles off.

I never heard of a Newfoundland vessel engaging on a fishing voyage on any of the coasts of the United States of America.

American fishermen have sold small codfish in this neighborhood, but I can't speak as to quantity.

I once bought from United States fishermen three or four barrels cod roes; this was two years ago. Occasionally United States fishing vessels refit in this neighborhood. I have sold them provisions and wood. I do not know of their having transshipped cargo in a Newfoundland port.

The supply of bait to United States fishermen greatly decreases the supply of bait to our own fishermen. Last summer there were about twenty United States fishing craft in Ship Cove, and they employed several Burin fishermen to haul caplin for them in Grip Cove, near Port au Bras, which they did, loading seven or eight dories and two skiff loads, after which no caplin was to be found in the cove, thus compelling over a dozen of our fishing craft to remain idle for a fortnight until the squids came in, thereby losing four or five hundred quintals of codfish.

In June, 1875, there were about one hundred fishing punts in Burin Bay depending upon a supply of caplin for bait, which was prevented by the operations of a seine sent from St. Pierre and worked by a Burin man to supply fresh caplin to the American fishing schooners, the said seine having hauled continuously until the caplin were exhausted in one of the principal baiting coves; thereby the punt fishermen aforesaid lost their caplin school—the harvest of their fishery.

I am of decided opinion that the presence of the large number of United States fishing vessels on the Banks off our coasts, largely supplied with fresh bait, greatly reduces the catch of our local fishermen; and that the short catch of codfish the past two summers along our south and west coasts is attributable to this cause.

It is remarkable that this year, when the supply of fresh bait to United States vessels by our people had ceased, then a moderate share of fish struck in upon our shores, enabling the fishermen of Great Burin to catch during October and November from eight to ten quintals for a man and a boy.

The general average of fish caught this year by fishermen of this neighborhood, has been eight quintals per man in punts and fifteen quintals

per man in boats going to Cape St. Mary's; Great Burin being an exception would give twenty quintals a punt for man and boy.

Previous to the last three years the average catch of codfish per man in this neighborhood has been forty quintals.

The supply of fresh bait to the French at St. Pierre by fishermen from St. Laurence to the Flat Islands will exceed ten thousand pounds annually, the above section of coast including Burin Proper, St. Laurence, Mortier Bay, Tites Cove, Rock Harbor, Bean Bois, and other harbors.

FRANCIS BERTEAN.

Sworn before me, at Burin, this seventh day of December, 1876.

J. O. FRASER,
Commissioner of Affidavits.

No. 72.

RICHARD McGRATH, aged fifty years, subcollector H. M. customs, residing at Oderin, Newfoundland, maketh oath and saith:

I am acquainted with the Newfoundland fisheries by having prosecuted the same for fifteen years.

I have seen United States vessels in this neighborhood. In 1874 four or five of these vessels called in at the back of Oderin Island, having procured ice at Burin, and twelve miles from here hauled caplin for bait. They also purchased a few barrels; but principally they hauled their supply; whether this was done exclusively by themselves, or with the aid of local fishermen, I cannot say.

Newfoundland fishermen generally catch codfish within two miles of the shores. The caplin, herring, and squid fisheries for bait are inshore fisheries, squid being exceptionally taken several miles from the shore. I never heard of a Newfoundland vessel fishing on any of the coasts of the United States of America.

I am of opinion that the presence of the large number of United States vessels fishing on the Banks off our coasts with fresh bait interferes with and tends to reduce the catch of our local fishermen. The effect of baiting the Banks with fresh bait I conceive can have no other result than to attract codfish and prevent it passing in toward our shores, and am of opinion that the supply of fresh bait to United States vessels by our fishermen should be put a stop to as far as practicable.

RICHARD McGRATH,
Subcollector.

Sworn before me at Oderin this 16th day of December, 1876.

J. O. FRASER,
Commissioner of Affidavits.

No. 73.

HENRY PENNELL, aged 52 years, fisherman, residing at Trepany, Newfoundland, maketh oath and saith:

I am acquainted with the fisheries of Newfoundland by having prosecuted the same for twenty-five years.

I have observed a number of United States fishing vessels in the neighborhood of Trepassay, St. Mary's Bay, during the last two years; the number so seen by me would be about forty. These vessels came to the harbor for fresh bait and ice. The chief fishermen of the place decided, last year, that to supply American fishermen with fresh bait would be injurious to the local fishery, and having met in a body, it was

resolved not to haul bait for American fishermen, or otherwise supply them with bait. Only one or two persons in the place broke through the rule, and they, to a limited extent only, supplied bait to American fishermen. Were it not for the determination of the people not to catch or haul bait for United States fishermen, it was known that a large number of their schooners would call in at Trepany from the Banks for fresh bait, and that their traffic would be hurtful to our bait supply.

Among the captains of the United States vessels at Trepany, I remember only a few—Captain Rositer, Captain Kane, were two, but without time to think I cannot recollect many. The bait in season when these United States vessels were at Trepany was caplin; the quantity they required was from forty barrels to one hundred barrels each. They would contract for forty barrels and would take one hundred barrels, if they could procure this quantity.

The great bulk of codfish caught by Newfoundland fishermen is taken within two miles of the shore, but a number of our boats go well off shore in the spring, and after the cod seine fishery, which ends on our shores about Trepany about the 10th of August.

The Newfoundland fishery is an inshore fishery. I never heard of a Newfoundland vessel engaging on any fishing voyage on any of the shores or coasts of the United States of America.

United States vessels have sold fish and oil at Trepany last year. Know their captains have done so, but I cannot say to what extent. Their vessels have been refitted at Trepany, where they also get wood and water.

I think the supply of bait by our people to the United States fishermen decreases the supply for local purposes.

I am also of firm belief that the presence of the large number of United States fishing-vessels, well supplied with fresh bait, fishing on the Banks, largely and injuriously affects our local catch of codfish, and that the short catch last year along our south and west coasts was mainly attributable to their operations. Their captains last year told me that our bait supply was of the greatest service to them; that their vessels using fresh bait from our shores get a load in a comparatively short time, whereas vessels alongside of them, using clams for bait, hardly get a fish. It must be, therefore, that the fresh bait supplied by us, and used by United States fishermen on the Banks, tends to retain the fish on the Banks, preventing its passing in for our shores, and thus operating against our fishermen, as does the supply of bait, which has, in some instances that I have seen, left local fishermen without bait to follow up their fishery.

The catch of codfish by fishermen in the neighborhood of Trepany last year was under two-thirds of former catches, and the catch by the Trepany fishermen was greater than any other part of the southern shore. United States fishing-vessels sometimes come in among our boats to fish. The quickest trip I have known any of them make was a trip taken on Cape Ballard Bank, when, in two offers of about three weeks each, this vessel completed her trip, with which she left for the United States. Her captain told me it was the quickest trip of codfish he had ever made.

There is an ice-house at Placentia where ice is stored for sale to United States fishermen. I have heard that there is also an ice-house at Salmonier, St. Mary's Bay, where ice is stored for like purposes. American vessels sometimes tow icebergs along with them to preserve their fresh bait.

HENRY PENNELL.

Sworn before me at St. John's, Newfoundland, this 4th May, 1877.

J. O. FRASER,
Commissioner of Affidavits.

No. 74.

PATRICK LEARY, aged 72 years, planter and fisherman, residing at Renews, Newfoundland, maketh oath and saith :

I have become acquainted with the fisheries of Newfoundland by following the same since I was fourteen years of age, and have had charge of a public bait-skiff, of a schooner to the Banks, and for many years was master of a western boat, and in every town am well acquainted with all the fisheries of this country except whaling.

I have observed several United States fishing-vessels in this neighborhood. Last year eight or ten of these vessels were here for bait, which some of them got, and others went on to Cape Broyle and Bay Bulls for bait. The vessels referred to as being in this harbor came here for bait and to purchase ice. The ice purchased by them they pay \$3 per ton for. For squids they pay about ten shillings per barrel for what they purchase in this harbor. Each United States vessel takes forty barrels caplin per trip, and when squids are in season take forty barrels squids per trip. I hauled bait for one of their schooners; this was caplin that I supplied to Capt. James Dunphy. I supplied him with bait in 1876 and 1875. I gave him forty barrels caplin each year. He found the crew and I found the seine and gear. He paid me \$8 each year for my services. The Newfoundland fishery is an inshore fishery. The bait-fishery—caplin, herrings, and squid—is an inshore fishery, this bait being caught almost wholly in the harbors and coves of our bays. I never heard of a Newfoundland vessel engaging in the prosecution of any fishery on any of the coasts of the United States of America.

The supply of bait to United States fishermen has decreased the supply to our local fishermen. This is particularly true as regards squids, which were driven from our shores last fall, or else were all caught in supplying Americans.

I have no doubt whatever but that the presence of the large number of United States vessels fishing on the Banks off our coasts well supplied with fresh bait, acts ruinously upon our local fishery and reduces the catch of our fishermen. I think their operations last year was the cause, chiefly, of the short catch along the southwest coast by our fishermen. It is a common practice for certain of these United States vessels to supply themselves with large quantities of bait for the purpose of selling the same to vessels of their country on the Banks at large prices, thus serving as bait-skiffs and saving time. This supply of fresh bait to United States vessels prevents codfish from working in upon our shores as they would otherwise do. Each United States fishing-vessel has five or six doreys, and each dorey has over one thousand hooks, all used as bultows along the Banks, thus forming a fence, and, as I believe, a double fence along the whole part of our shores. The results must be ruinous to our fishery. The facilities afforded them of procuring fresh bait in our harbors and bays, arms them doubly against our fishing interest, by destroying, or at all events rendering scarce, a prime necessity to the prosecution of the fishery by our fishermen, and by keeping codfish from striking our shores. The average catch of fishermen in this neighborhood in 1875 and 1876 was about fifteen quin-

tals; previous to 1874 the average would be about thirty-five quintals per hand.

his
PATRICK + LEARY.
mark.

Sworn before me, at Renew's, this 11th day of April, 1877.

J. O. FRASER,
Commissioner of Affidavits.

MICHAEL JACKMAN, aged 63, planter, residing at Renew's, Newfoundland, maketh oath and saith that I have followed the fisheries for fifty years; that I was present and heard Patrick Leary make the above statement; all of which, to my knowledge, is true, except the remarks regarding his (Patrick Leary's) connection with the fisheries of Newfoundland and his services in procuring bait for Capt. James Dunphy, of which I know none of the particulars.

MICHAEL JACKMAN.

Sworn before me, at Renew's, this 11th day of April, 1877.

J. O. FRASER,
Commissioner of Affidavits.

No. 75.

GARRETT JACKMAN, aged 53 years, boat-owner, residing at Renew's, Newfoundland, maketh oath and saith: I have been a boat-owner for thirty years, following the fisheries in Newfoundland. I was present and heard Patrick Leary make the statement sworn to by him on this day, the 11th of April, before J. O. Fraser, commissioner of affidavits at Renew's; that, excepting that part of his statement referring to the length of time he had followed the fisheries and his transactions with Capt. James Dunphy, I know that the statement of Patrick Leary, as aforesaid, is true in every particular.

GARRETT JACKMAN.

Sworn before me, at Renew's, this 11th April, 1877.

J. O. FRASER,
Commissioner of Affidavits.

No. 76.

JOHN WHITE, aged 64 years, planter, residing at Ferryland, Newfoundland, maketh oath and saith:

I have become acquainted with the fisheries by following the same since I was sixteen years of age, and by having charge of a cod-seine forty-five years. I understand all about the fisheries and their prosecution.

I have seen a number of United States fishing-vessels in our bays and offings some days. I have seen fifteen in the harbors in this neighborhood. I think there were two hundred of these vessels frequenting harbors and coves on the southern shore the past year to procure fresh bait. I have heard the names of quite a number of these vessels, and have conversed with many of their crews, but have not particularly noted the names of their vessels.

Each vessel takes about forty barrels caplin per trip, and the same quantity of herrings when in season per trip, and also about forty barrels squids per vessel each trip. This I know and have been so told by Captain Ryan, who was master of one of these United States vessels.

The Newfoundland fishery is an inshore fishery; the bait fishery—caplin, herring, and squid—is inshore fishery. I never heard of a Newfoundland fishing vessel prosecuting any fishery on any of the coasts of the United States of America. These United States vessels do sell small codfish and cod oil along the southern shore, and I know they refit their vessels in our harbors from having sold them cordage and other articles to refit. The supply of bait to United States fishermen has in some instances “swept the ground,” leaving not a herring or a squid for our local fishermen. In one harbor, close to us on the southern shore, upwards of four thousand barrels squids have been taken by United States fishing vessels. I think it very injurious to our people that so large a quantity of bait is thus supplied to the United States fishing vessels. While our people are engaged catching bait for United States fishing vessels they would catch double the value of what they receive for bait if they followed up the cod fishery instead of giving it up for a pursuit that is fickle and directly opposed to their interest, inasmuch as the fresh bait thus supplied United States vessels is used on the Banks to keep the fish from coming in upon our shores. Every season and almost every day an occasional fish is caught having an American hook in its mouth, which proves that the fish striking our shores encounter United States fishermen’s hooks—the more attractive we may help to make these hooks the more it will damage ourselves.

I do fully believe that the United States fishing vessels fishing on the Banks off our coast well supplied with fresh bait has reduced the catch of local fishermen, and that the short catch the past season was attributable to their operations on the Banks fishing and in our harbors for bait.

The effect of their operations must certainly be—as I heard more than one of their captains declare—that they would not leave a fish to be caught in a short time.

The average catch of codfish by our fishermen per man, since 1874, was under twenty quintals; previous to 1874 the catch per man would average fifty quintals.

The effect of United States fishermen’s operations in our waters is absolutely ruinous to a degree that money cannot pay; they will destroy “the goose that lays the golden egg.” Our fisheries are sacrificed by the concessions of the Treaty of Washington.

JOHN WHITE.

Sworn before me, at Ferryland, this 10th day of April, 1877.

J. O. FRASER,
Commissioner of Affidavits.

No. 77.

ROBERT MORRY, aged 46 years, supplying merchant and planter, residing at Caplin Bay, Newfoundland, maketh oath and saith: I have become acquainted with the fisheries of Newfoundland from being connected therewith since I was boy. I have, during the last two years, seen a number of United States fishing vessels in this neighborhood. Last season, I can safely say, I saw upwards of a hundred of such vessels either in this harbor or passing close by; there were five or six of these vessels in this harbor of last year; they came for bait—for caplin during the “caplin school,” and squids afterward. This bait they hauled themselves in part, and jigged squids. I saw six dories belonging to one of their vessels on the “jigging ground” busily employed jigging for

squids. They also purchase bait from our people, being always in a hurry to get their bait as quickly as possible to proceed again to the Banks. Caplin they regularly haul for themselves when caplin is abundant, which it always is until the season advances. Each vessel takes about eighty barrels fresh caplin, which they preserve in ice purchased from our people. The bait hauled and jigged by these United States fishermen was taken in the harbor close to shore.

Newfoundland fishermen generally catch codfish within one and a half miles of the shore. The Newfoundland fishery is an inshore fishery; exceptionally, in the fall, boats do go off to Banks called Fermeuse and Renewes, Bantams and Cape Ballard Bank. The caplin, herring, and squid used for bait are inshore fisheries, and are prosecuted close to shore.

I never heard of a Newfoundland fishing vessel prosecuting any fishery on any of the coasts of the United States of America. The supply of bait to United States vessels decreases the supply of bait to our local fishermen. I feel certain that the supply of bait to these United States vessels has had the effect of reducing the catch of our local fishermen, and can attribute the short catch of codfish in 1876 along these shores to no other cause than the operations of United States fishing vessels fishing on the outer Banks. I consider that the evil resulting from the use being made by the United States fishermen is the right to take bait in our waters, will every year become more hurtful to our people, and that it of already serious magnitude. There were no ice-houses at this harbor for the supply of bait to the United States fishermen, who purchased what they required at Cape Broyle and elsewhere.

ROBT. MORRY.

Sworn before me, at Caplin Bay, this 10th day of April, 1877.

J. O. FRASER,
Commissioner of Affidavits.

No. 78.

PETER WINSER, aged 54 years, planter, residing at Aquaforte, Newfoundland, maketh oath and saith:

I have been connected with the fisheries of Newfoundland, by either prosecuting the same or supplying therefor, since I was fourteen years of age.

I have seen United States fishing-vessels in this harbor the past season as well as the year previous, getting bait; they jigged squids themselves in part, and what they were short of catching they purchased from our fishermen. Caplin they hauled themselves, using a seine belonging to a person residing in this harbor, which was worked by American fishermen, except one young man, the son of the seine owner. Four of these vessels have been in this harbor at one time catching bait; as many as fifteen have been at one time in Cape Broyle; I saw ten there one day, whose crews were all engaged catching squids. In this immediate vicinity there were last summer not fewer than seventy of these United States vessels in our harbors during the caplin school; and I am well informed that between St. Johns and Trepany not fewer than two hundred have frequented the harbors for the supply of fresh bait, which they procured partly by catching for themselves and partly by purchasing. I am led to believe that it is the intention of United States vessels to come in upon our shores and into our harbors to catch bait to convey to their schooners on the Banks, so that

they may prosecute the cod fishery uninterruptedly. The supply of bait by each United States vessel per trip is about as follows: 40 barrels caplin during the caplin school; and as I was told by one of the captains, 50 barrels squids. United States vessels make two and three trips for bait.

United States fishermen do not fish on these shores, but I learn that they do fish within three miles of the shores about Cape St. Marys.

The Newfoundland cod fishery is an inshore fishery; and the bait fishery—caplin, herrings, and squid—is an inshore fishery, generally taken in the harbors close to shore.

I never heard of a Newfoundland vessel prosecuting any fishery on any coasts of the United States of America. United States fishermen have sold small codfish and cod-oil in this neighborhood. I purchased ten quintals from them myself, and 4 barrels of cod-roes—this was last season. The price given by me was 10s per cwt., green, for fish, and 10s. per barrel for cod-roes.

I verily believe the supply of bait to United States fishermen decreases the supply to our local fishermen—particularly in squids. My chief reason for thinking so is that last year when one of their vessels anchored in this harbor and jigged and purchased fifty barrels squids we could not afterward catch half bait for our own wants. I never knew so sudden a change before—from abundance to next to none. The price paid for squids, purchased by these Americans, to our people, was about six shillings per barrel. Quite a number of our own people gave up the cod fishery during the presence of United States vessels in order to catch squids to sell to United States vessels, by which they lost more than twice what they gained, and ultimately lost a great deal more inasmuch as the fifty barrels of squids taken by the one vessel was a permanent loss to our people, which could not afterward be recovered, and without bait there can be no fish.

It is my belief that the short fishery the past season along these south and west shores was owing, in a great measure, to the fishing operations of United States fishing vessels in our harbor for bait and fishing on the Banks off our shores.

The average catch of codfish previous to 1874 would not be under fifty quintals; since 1874 it has not exceeded from fifteen to twenty. There are ice houses in this neighborhood and I learn a large ice house has been built at Cape Broyle to preserve ice for sale to United States fishermen this year—this ice they use to preserve bait fresh, which they use on the Banks to attract the fish. They do so successfully and keep codfish from striking our shores as they formerly did.

PETER WINSER.

Sworn before me at Aquaforte, N. F., this tenth day April, A. D. 1877.

J. O. FRASER.

Commissioner of Affidavits.

RICHARD CASHIN, aged 62 years, planter, residing at Cape Broyle, Newfoundland, maketh oath and saith:

I have been connected with the fisheries of Newfoundland as supplier and fisherman for fifty years, during nearly the whole of which time I have followed the fishery myself as a catcher of codfish, and understand it well in all its branches. I have observed a number of United States fishing-vessels in this neighborhood. Last summer, for three months after first of July, there was hardly a day passed that I did not see from

one to fifteen of these vessels in this neighborhood. I did not take any particular account of vessels, but can name the following as among them :

Vessel's name.	Captain's name.	Where belonging.
Pedro Venale.....	McCabe.....	Gloucester, U. S. A.
.....	Sylva.....	Providence, U. S. A.
.....	McInnis.....	Gloucester.
.....	McGrath.....	Do.
.....	Lohem.....	Cape Ann.
.....	Hogg.....	Gloucester.
.....	James McArthur.....	Do.
Winefred J. King.....	F. King.....	Do.
Grace C. Hadley.....	Edward Hall.....	Do.
Flying Scud.....	Hiltz.....	Do.
.....	Mulloy.....	

I cannot give particulars as to tonnage of these vessels, which would vary from sixty to one hundred tons. The United States vessels I refer to as frequenting this neighborhood came here to purchase and haul bait, which they did. For the purpose of hauling bait they hired seines belonging to the fishermen of the place. Except the last trip, made about end of October and first of November, these vessels procured full allowances of fresh bait, and purchased salted squids and herrings as their chief supply for the last trip. I have sold bait to United States fishing vessels. I, with others in this harbor, supplied bait last year to about one hundred and fifty United States fishing vessels. Each vessel would take forty barrels of squids—one vessel taking eighty barrels squids. The squids sold these United States fishing vessels would be supplied in August and September, which they preserved fresh in ice, when ice was procurable, and in October salted squids were sold to them for bait, when fresh was not to be had.

During the caplin season United States fishing vessels regularly frequent this neighborhood as they do for squids, and about in equal numbers. In the spring they prefer herrings to caplin, but failing to get herrings they take caplin, which they preserve in ice. American fishing vessels (I mean United States vessels) make from one to three trips for bait and ice. The prices paid for bait by United States fishing vessels in this neighborhood has been for caplin one dollar per barrel; for herrings, from five to ten shillings per barrel, and for squids, from ten shillings to twelve shillings and sixpence per barrel for fresh squids. Sometimes when squids are scarce, they give three shillings per hundred squids.

The squid for bait has been represented by the captains of these United States vessels as invaluable. One captain refused a brother captain on the Banks to give him a barrel of squids for sixteen dollars. Newfoundland fishermen generally fish within two miles of our shores. The Newfoundland cod-fishery is an inshore fishery. The caplin, herring, and squid for bait are all inshore fisheries, and except in rare instances, when squids are caught some distance off, are never taken at a distance of more than three miles from the shore, but are generally caught in the harbors and coves along our shores.

I never heard of a Newfoundland vessel prosecuting any fishery on any of the coasts of the United States of America.

United States fishermen have sold small codfish and cod-oil in this neighborhood. I have purchased codfish and oil from them. The prices paid have been eight and nine shillings per cwt. for green codfish, and

two shillings and sixpence per gallon for cod-oil. Eighty quintals fish and two and one-half tons oil is what I purchased.

United States vessels regularly refit in this neighborhood, and have purchased provisions, wood, and water. I have furnished them with provisions and other supplies, taking their orders in payment thereof. These orders generally have been paid, but in one instance the captain's order on the American consul, St. John's, in my favor, was refused, and I have never since been paid.

The supply of bait to United States fishing-vessels acts ruinously upon our local fishermen, and greatly shortens their supply of bait; this is true as regards herrings and squids, and results in shortening the catch of local fishermen. I do believe that the operations of United States fishermen on the Banks, well supplied with fresh bait, interferes with and reduces the catch of our local fishermen, and am of opinion that the short catch of codfish the past summer has been caused by the United States fishermen fishing on the outer Banks.

The average catch of codfish here the last two years will not exceed twenty quintals per man; the average catch previous to 1874 would be fully fifty quintals per man.

There are ice-houses in this locality where ice is preserved for sale to United States fishermen. The price paid for ice supplied in this harbor has been \$4 per ton.

RICHARD CASHIN.

Sworn before me at Cape Broyle, this ninth day of April, 1877.

J. O. FRASER,
Commissioner of Affidavits.

No. 80.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, THOMAS C. ROBERTS, of Cape Canso, in the county of Guysborough, and Province of Nova Scotia, but at present of the city and county of Halifax, in said province, master mariner, make oath and say as follows:

1. I have been a practical fisherman for fifteen years of my life up to the year 1873, during five years of which time I was in command of a fishing-vessel. I have fished for codfish and mackerel and herring in the Gulf of Saint Lawrence and on the south shore of Nova Scotia, and during one season on the United States coast.

2. During the years that I was employed in fishing, the number of American vessels fishing for mackerel and codfish in the Gulf of Saint Lawrence and on the coast of Nova Scotia would, to the best of my knowledge, range from six hundred to seven hundred each year. The average number of men to each vessel would be about fifteen.

3. The average catch of American vessels while I was in the fishery was about five hundred barrels per vessel each year.

4. The practice of using purse seines, which has been followed by the Americans during the past few years, is, in my opinion, very injurious to the mackerel fishery, as it tends to break up the schools of mackerel and drive them away; but perhaps the greatest injury resulting from this practice is the destruction of immense quantities of young mackerel, which are caught in seines and thrown away as worthless. In the cod fishery the practice of trawling is very destructive, as it destroys

the mother or spawn-fish which would be caught only in very small quantities by the hook and line.

5. The greater part of the mackerel caught by American fishermen on our coasts are, in my opinion, caught inshore. As far as my own observation goes, where there is one mackerel caught outside of three miles from shore, there are fifty mackerel caught within that distance. Almost all the mackerel caught in vessels in which I was employed were caught within three miles of the shore. The herring fishery is altogether an inshore fishery.

6. The American fishermen catch a considerable amount of bait, especially squid for the cod fishery, in our harbors and bays, but they also buy a very large quantity from our fishermen. The American cod-fishermen cannot carry on the fishery successfully without procuring bait on our shores, or on the shores of Newfoundland.

7. The privilege of transshipping cargoes on our shores is of vast advantage to American fishermen, that is the mackerel fishermen. By means of this they save from a fortnight to three weeks on each trip they make to the fishing grounds; and that generally in the best part of the fishing season. I have known an American mackereler to get a good trip in the time that another vessel was going home and returning.

8. During my experience of fifteen years I found that the mackerel are variable, and that they are sometimes scarce for a time, and then come in again as plenty as ever. I do not think that their scarcity in 1875 and 1876 is permanent, but I believe that unless the fishery is destroyed by the use of purse seines, the mackerel will again be as plenty as ever. I have understood that this year the mackerel are very plenty in the Gulf of Saint Lawrence, and I myself have seen the mackerel along the coast from Halifax to Canso in large numbers in the month of June last.

9. I am of opinion that the privilege of fishing in American waters is of no value whatever to Canadians.

10. According to the best of my belief, at least two hundred and fifty American cod-fishing vessels touch at the shores of Guysborough County each year for bait and supplies. They purchase large quantities of ice at Canso, which is, of course, a valuable privilege to them.

THOMAS C. ROBERTS.

The said Thomas C. Roberts was sworn to the truth of this affidavit, at Halifax, in the county of Halifax, on the 18th day of August, A. D. 1877, before me.

WILLIAM WILSON,
A Justice of the Peace.

No. 81.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, JAMES SIMON RICHARD, of Getson's Cove, in the county of Lunenburg, master mariner, make oath and say as follows:

1. I have been engaged in the fisheries for twenty-five years, down to August, A. D. 1876. For fifteen years I have fished as master. I fished around the coast of Cape Breton, on the eastern side of New Brunswick, around Prince Edward Island, the Magdalenes, and on the Canadian coast of Labrador, along the southern coast of Nova Scotia, and am well acquainted with the inshore fisheries in Lunenburg County. I have taken all the kinds of fish found on the above-mentioned coasts.

2. When in the North Bay, about nine years ago, I have seen from eighty to ninety American vessels at one time together taking mackerel. The mackerel were taken mostly all inshore, within three miles of the shore, nor would it pay to go to the North Bay to take mackerel unless we could take them well in three miles of the shore.

3. The American mackerel-vessels carried from fourteen to eighteen men each. Their vessels now carry more men because they are larger. These vessels took from three to four hundred barrels on each trip. They made from two to three trips. They ran into the Strait of Canso and landed their cargoes, which were often sent away in steamers and fishing-vessels. On the third trip they usually filled up full with from five to six hundred barrels and went home.

4. The Americans took in the bay also large quantities of codfish, and I would say that there were as many Americans in the North Bay taking codfish as there were Nova Scotian vessels year after year down till last year included. This has been my experience there for fifteen years. These codfish-vessels average about fourteen men; they carry each from twelve to sixteen men; they take from a thousand to twelve hundred quintals to each vessel, and generally make two trips.

5. I have seen at the Magdalenes over sixty American vessels engaged in taking herring, and there were, I think, many more which I did not see. In the spring of seventy-six I saw around the Magdalenes many American herring vessels. These herring-vessels carry from ten to twelve hands, and take from a thousand to three thousand barrels to each vessel. These herring were all taken inshore by seining on the shore.

6. In my experience the mackerel-fishing has varied, being some years good and others poor. In seventy-two the catch was very plentiful. The herring fishery, in my experience, has remained about the same. Codfish vary to some extent; if bait is plenty codfish are plenty, and, in my experience, I could always catch codfish if I had plenty of bait.

7. Mackerel used to be taken by the Americans usually with hook and line, they are now taken also by the Americans with purse seines. The Americans formerly took codfish with hook and line, now they take them mostly by trawling in the North Bay. The most of the Canadian vessels in the North Bay take codfish with hook and line. Trawling I consider very bad for the fishery, as the mother fish are taken and great quantities of spawn destroyed. By hand-lining few mother fish are taken. The Americans take all their fish on the Banks by trawling and have done so since I can recollect. Canadians had commenced to take by trawling within the last four or five years. It is three years since I commenced. Canadians have been compelled to trawl in order to compete with the Americans.

8. The throwing overboard of gurry I consider injurious to the fishing ground, as it gluts and drives away the fish and destroys the eggs and young fish.

9. The Americans always fished inshore whatever the treaty was. When a cutter came in sight they moved off and came inshore when she disappeared. Since the Treaty of Washington the Americans have fished inshore more freely than when they had not the right to our inshore fisheries.

10. The inshore fisheries in Canadian waters are of much greater value than the off-shore fisheries. I would say more than double the value.

11. I have seen the Americans use purse seines to a large extent in the North Bay. These purse seines I consider very injurious to the fish-

ery, as they mash a large quantity of the fish, catch both large and small mackerel, and all kinds of fish; the fish are spoiled if they are allowed to remain twenty-four hours in the seine. The seine is tripped and the fish which fall out are bad for the grounds. The schools of mackerel are also broken up by purse seining and the fish frightened away. I have never seen nor heard of any Canadian vessel using purse seines.

12. The Americans catch squid for bait, herring and mackerel they catch, but principally buy for bait because it saves time and expense. This bait they get in this harbor and in the bays and harbors along the Canadian coast from Cape Sable to Labrador.

13. I have seen the Americans seining codfish on the Canadian coast of Labrador. Large quantities of these fish are taken inshore by Canadian fishermen, and thousands of Canadians depend upon these fish for a livelihood.

14. The mackerel make inshore to feed; their food is found inshore. They spawn inshore. They are taken principally inshore, and I consider them to be an inshore fish.

15. The Americans save time and expense by transshipping cargo, and catch more fish. I think each vessel saves upwards of \$2,000 by this privilege.

16. It is of great value to the Americans to procure bait in Canadian bays, harbors, and creeks inshore, nor could they prosecute the fisheries in Canadian water, either inshore or off shore or on the banks, without this bait. They get bait and ice all along our coast, and without ice they could not keep their bait fresh, and without fresh bait they could not profitably catch fish.

17. The Americans hinder Canadian fishermen to a large extent by carrying off so many fish, by taking fish by improper methods, by making bait scarce for Canadian vessels, of which there are about a hundred owned in this place and around the La Have.

18. I have never known nor heard of any Canadian vessel fishing in American waters.

19. I would consider it a great benefit to Canadian fishermen if Americans were excluded from our inshore waters, and I know of no benefits that we derive from American fishermen.

JAMES S. RICHARD.

Sworn to at Getson's Cove, in the county of Lunenburg, this 9th day of August, A. D. 1877, before me.

BENJ. RYNARD, J. P.

No. 82.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, JACOB GROSER, of Lower La Have, in the county of Lunenburg, fisherman, make oath and say as follows:

1. I have been about forty years engaged in the fisheries. I have fished along the southern coast of Nova Scotia, around the Island of Cape Breton, on the eastern coast of New Brunswick, around Prince Edward Island, the Magdalen Islands, and the Lower St. Lawrence, and am well acquainted with the inshore fishery in Lunenburg County.

2. Four years ago I was in the Bay of Chaleur, and for many years constantly before that time year after year. Five years ago I have seen in the Bay of Chaleur from two to three hundred American vessels in

one fleet. The most of these vessels took mackerel and they took the most of their mackerel inshore, and very seldom caught much mackerel beyond three miles from the shore. I have fished codfish inshore around Prince Edward Island and Cape Breton within three miles of the shore, and the vessel in which I was took from four to five hundred quintals, the most of which was taken inshore; and I have seen many Americans fishing codfish inshore where we fished. The Americans fished inshore for mackerel, and wherever they could get them.

3. The American mackerel-men carry from fifteen to twenty men each. They take from four hundred to five hundred barrels to each vessel. They make from two to three trips. The American cod-fishermen carry about fifteen men each in the North Bay, and they take from eight hundred to a thousand quintals of fish each, and generally make two trips. The vessels on the Banks engaged in cod-fishing take about the same.

4. In my experience mackerel-fishing has varied, being good for some years and poor again for a number of years. This has been my experience for forty years. Codfish has always been plenty if we had plenty of fresh bait.

5. The Americans take mackerel mostly with hook and line. They take codfish with hook and line, but mostly by trawling, and I have seen them trawl inshore for codfish around Prince Edward Island. The taking of fish with trawls I consider very injurious, as the mother fish are taken, and I have seen a cargo of 800 quintals the greater part of which were mother fish. In trawling the bait lies on the bottom and the mother fish are taken, in land-lining few mother fish are taken.

The Americans trawled since I can remember, upwards of forty years ago; our vessels, of which there are about from sixty to a hundred fishing out of the La Have, never used trawls, but within the last six years our fishermen trawl in order to compete with the Americans.

6. The Americans, in my experience, fished inshore whenever they could, whether they had the right to do so or not. They moved out when a cutter hove in sight and returned when she disappeared.

7 The inshore fishery is more than double the value of the outside fishery.

8. The Americans made a common practice of lee-bowing us, and I have often seen them throw overboard bait to draw off the fish, and I have suffered in this way from them. I have also often seen them running into Nova Scotian vessels, and the large number of them made it dangerous for Nova Scotian fishermen. Since the Americans have the right of fishing inshore they do not practice throwing over bait to draw off the fish.

9. Since 1871 there has been more codfish taken than formerly. This summer mackerel has struck in very plentiful around this harbor in immense schools.

10. The herring fishery is all inshore, and the Americans buy them for bait in this harbor and all along the coast wherever they can get them.

11. The mackerel make inshore to feed, and are inshore fish, where they are mostly all taken.

12. I have seen Americans land in Prince Edward Island and dry their nets on the shore, and this privilege is of value to them.

13. I have seen the Americans land at the Strait of Canso and transship their cargo; by doing this they save time, expense, and catch more fish.

14. The Americans get bait all along the coast, and without this bait, and ice in which to preserve it, they could not carry on the Bank fishery.

They get ice and bait in this harbor. Trawling must be carried on with fresh bait.

15. The Americans come here to buy bait before herring and mackerel set in, and make it scarce for our vessels, which is a great injury to our bankers, and without this bait they could not profitably carry on the deep-sea fisheries.

16. I have never known nor heard of any Canadian vessel fishing in American waters, and I consider this right of no value to Canadian fishermen.

17. I would consider it to be of great value to Canadian fishermen if the Americans were excluded from our waters, and I know of no benefit that we derive from American fishermen.

JACOB GROSER.

Sworn to at Lower La Have, in the county of Lunenburg, this 7th day of August, A. D. 1877, before me.

JAMES H. WENTZEL, *J. P.*

No. 83.

In the matter of the Fisheries Commission, at Halifax, under the Treaty of Washington.

I, NATHANIEL JOST, of Lunenburg Town, in the county of Lunenburg, master mariner, make oath and say, as follows:

1. I have been engaged in the fisheries for twenty-one years. I fished along the southern coast of Nova Scotia, northern side of Cape Breton, around Prince Edward Island, in the Bay of Chaleur, on the eastern coast of New Brunswick, and the Magdalen Islands. I fished mackerel, codfish, and herring. I am acquainted with many American fishermen, Nova Scotian fishermen, and also with the inshore fisheries in the county of Lunenburg. I was master of a vessel for two years, with a crew of seventeen hands, all told.

2. I have seen, about nine years ago, two hundred sail of fishing vessels, mostly American, together in one fleet, near Port Hood Harbor; many of these were engaged in taking mackerel within three miles of the shore. I have also seen many American mackerel men engaged in taking mackerel around the coasts of Cape Breton, Prince Edward Island, and eastern side of New Brunswick, and many of these fished inshore. I would say that there were at least four hundred American vessels around the before-mentioned coasts taking mackerel. During the past two years I have seen, at one time, in sight, five American vessels engaged in taking codfish on the southern coast of Nova Scotia, and a great many in sailing along; and, at Sable Island this spring I have seen from fifteen to twenty in sight at one time engaged in taking codfish.

3. The Americans, when I fished in the Bay of Chaleur, averaged about six hundred barrels of mackerel to each vessel during the season. The past two or three years cod-fishing vessels averaged from fifteen hundred to two thousand quintals to each vessel during the season.

4. In my experience mackerel fishing has varied, being some years good and others poor; in '72 and '73 fair voyages were made. Ever since 1869 the codfishing has been good, and when bait and ice could be obtained plenty of fish could be had. On our coasts herring fishing has not been very extensively prosecuted, but when it has herring has always been obtained; I saw this spring an American vessel fitted out

for catching herring around the Magdalenes, and they expected to take three thousand barrels, and last spring large catches were made around the Magdalenes, which were shipped to the Baltic and Black seas.

5. Some years ago the Americans took mackerel with hook and line; now I am informed they use purse seines and hook and line. Codfish are taken chiefly by trawling and handlining; the herring are taken around the Magdalen Islands with seines.

6. The offal is thrown overboard by the Americans, which is very injurious to the fishing grounds, glutting the fish and driving them away. I have caught fish with sound bones in them in a sickly state.

7. I am acquainted with a great number of Nova Scotian vessels, and I have never seen nor heard of any of them using purse seines, and I consider the use of these purse seines by the Americans as very injurious to fishing.

8. The Americans buy bait all along the coast, and ice in which to pack it, wherever they can get it, and they buy it because they save time and the expense of netting.

9. When I was engaged in mackerel fishing it was a common practice among the Americans to lee-bow us. They made bait much more expensive to Canadian fishing vessels by coming into our harbors and purchasing it when bait is scarce; the time they come for bait, herring and mackerel are only beginning to set in.

10. Herring fishery is all inshore, and the Americans purchase herring for bait as already stated.

11. Taken on an average, Canadian mackerel are better than American.

12. Mackerel in my experience make inshore, and I consider them to be an inshore fish.

13. At the Strait of Canso I have often seen the Americans transshipping their cargoes, and by this plan they save time and catch more fish.

14. It is of great advantage to the Americans to be able to procure bait from our inshore fishermen, and ice in which to pack it, and without this privilege they could not carry on the deep-sea fishery profitably. Last summer I took fresh bait from Canso, and with it fished on the Grand Banks, Newfoundland, and took one hundred quintals a day for six days, then tried salt bait and only took from eight to ten, and while using fresh bait both American and Nova Scotian vessels using salt bait around me, could catch no fish, and hove up and went away.

15. Without ice it would be impossible for the Americans to keep their bait fresh. The Americans bring their supplies from home, except ice and bait, and when they run short, purchase to a small extent in our ports.

16. To my knowledge no Canadian vessels ever go to American waters to fish, and I consider the right of fishing in American waters of no benefit to Canadians.

17. If the Americans were excluded from getting bait and ice, and from taking fish inshore, it would be of very great value to Canadian fishermen.

NATHANIEL JOST.

Sworn to at Lunenburg, in the county of Lunenburg, this 7th day of August, A. D. 1877, before me.

JOSEPH W. LOCKHART, J. P.

No. 84.

In the matter of the Fisheries Commission, at Halifax, under the Treaty of Washington.

I, CHARLES SMITH, of Lunenburg Town, in the county of Lunenburg, master mariner, make oath and say as follows :

1. I have been engaged in the fisheries for fifteen years. I have fished along the southern coast of Nova Scotia, around Cape Breton, Prince Edward Island, on the eastern side of New Brunswick, around the Magdalenes, on the Labrador coast, and am well acquainted with the inshore fisheries in Lunenburg County. I have taken all the kinds of fish found on the above-mentioned coasts. I have also been engaged in Bank fishing.

2. I have seen at Port Hood, in the Island of Cape Breton, about seven years ago, over three hundred sail of American mackerel vessels at one time. The last year I was in the North Bay I fished in an American vessel, Alice M. Lewis, of Gloucester. We took the most of the mackerel inshore—within three miles of the shore. We had on board the said vessel a crew of fifteen hands, and took four hundred and twenty-five barrels of mackerel in one trip, nearly all within three miles of the shore. I have often seen, year after year, upward of one hundred American vessels, at one time in sight, engaged in taking mackerel. By the North Bay I mean the water around Prince Edward Island, eastern side of New Brunswick, northwestern side of Cape Breton, and the Magdalenes. These vessels took the most of their mackerel inshore, within three miles of the shore. I do not think it would pay Americans to go to the North Bay to fish mackerel, unless they could catch them within three miles of the shore.

3. The Americans get bait and ice in large quantities at Northwest Bay on the Aspotogon Peninsula, in Lunenburg County. They get the ice in which to pack their bait upon the mountains. This ice they get free. Nearly the whole fleet of Lunenburg Bankers get their fresh bait at the said Northwest Bay. So many Americans getting bait and ice at this place interferes with our vessels. They make the bait scarce and dearer. Without this bait, and ice in which to pack it, the Americans could not carry on successfully the deep-sea fishery.

4. The Canadian vessels in which I fished in the North Bay took codfish with hand-lines. The Americans all trawled, at least all I saw, and I saw many in the said bay.

5. When on the Labrador coast, in 1871-'2-'3, I saw American vessels engaged in seining codfish on the shore. These vessels were on the Canadian coast of Labrador, and took two thousand quintals of codfish to each schooner. These schooners carried from twenty to twenty-two men each.

6. When in the American schooner we always fished inshore when we could. We moved away when a cutter appeared, and returned inshore when she disappeared.

CHARLES SMITH.

Sworn to at Lunenburg, in the County of Lunenburg, this 13th day of August, A. D. 1877, before me.

JOSEPH W. LOCKHART, J. P.

No. 85.

In the matter of the Fisheries Commission, at Halifax, under the Treaty of Washington.

I, BENJAMIN WENTZLER, of Lower La Have, in the county of Lunenburg, fisherman, make oath and say as follows :

1. I have been engaged in the fisheries for twenty-seven years up to eighteen hundred and seventy-five, inclusive, and fished every year in the North Bay, around Cape Breton, Prince Edward's Island, eastern side of New Brunswick, and around the Magdalenes. I have taken all the fish found in the waters on the above-mentioned coast. I am also well acquainted with the inshore fisheries in Lunenburg County. I have seen often more than a hundred American vessels fishing on the above-named coasts in one fleet together, and I have seen these vessels make off from the shore when a steamer appeared to protect the fishery ; when the smoke of the steamer could not be seen they came in again to the shore. Such large numbers of them made it dangerous for Nova Scotian fishermen, and I have lost many a night's sleep by them in order to protect our vessel. I have seen in Port Hood Harbor about three hundred sail of American vessels at one time, and it is seldom, if ever, that a third of them are in any harbor at one time ; and I have been run into by an American schooner in Port Hood Harbor. From 1871 to 1875, inclusive, I have seen the Americans in large numbers around Prince Edward Island, eastern side of New Brunswick, and around Cape Breton. I have seen many American vessels on the above-mentioned coasts engaged in taking codfish. They took fish inshore by trawling—offshore and wherever they could catch them. Some parts of the season the codfish is better inshore than off, and in my experience I have caught in our vessels more codfish inshore than off shore.

2. The Americans took in their schooners from three to four hundred barrels of mackerel to each vessel, and they made three such trips. The Americans fish on Sunday which our vessels do not do. The American mackerel-men carry from fourteen to twenty men. The American cod-fishermen have about fifteen or sixteen men on board, and take from six hundred to a thousand quintals.

3. The Americans take codfish by trawling, and did so as long as I can remember. About five years ago our vessels commenced trawling, in order to compete with the Americans. This trawling I consider very injurious to the fishery.

4. The Americans get bait all along the coast and in this harbor. Without this bait and ice they could not carry on the deep-sea fishery.

5. It would, in my opinion, be of great value to us fishermen if the Americans were excluded, and I know of no benefit to us in allowing the Americans to come into our inshore waters.

BENJAMIN WENTZLER.

Sworn to at Lower La Have, in the county of Lunenburg, this 8th day of August, A. D. 1877.

JAMES H. WENTZEL, *J. P.*

No. 86.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, GEORGE CONRAD, of South Village, in the county of Lunenburg, master-mariner, make oath and say as follows :

1. I have been engaged in the fisheries for forty years, and have fished mackerel, herring, codfish, halibut, haddock, pollock, and hake along the southern coast of Nova Scotia, eastern side of Cape Breton, in the Bay of Chaleur, around Prince Edward Island, and the Magdalen Islands for twelve years. I have fished as master of a vessel.

2. About twelve years ago, I have seen in Port Hood, in the island of Cape Breton, over three hundred sail at one time—about fifty or sixty were Nova Scotian, the remainder Americans. About eight years ago I have seen upwards of one hundred at one time on the coast of Prince Edward Island, fishing mackerel. These vessels fished inshore for mackerel, and were American vessels. I, along with other Nova Scotian captains, have made calculations when fishing in the Bay of Chaleur, and we concluded that there were upwards of four hundred American vessels at the time fishing mackerel in the bay. Mackerel must be fished inshore, as they are an inshore fish. The American vessels carry from twelve to eighteen men each. Around Bay of Chaleur and the Banks there would not be less than three or four hundred vessels engaged in taking codfish. Codfish vessels carry from twelve to eighteen men. Some American vessels are fitted out for halibut alone, but take large codfish, throwing away the small codfish. The Americans trawl for halibut and codfish.

3. The American vessels take two to four hundred barrels of mackerel each, and some of them make three trips. American codfishmen take from one thousand to eighteen hundred quintals of codfish each, and make three trips.

4. While in the Bay of Chaleur this summer, I have seen the Americans with purse seines, and told me that they used them; and these purse seines, in my opinion, spoil the fishery. I have never seen any Canadian vessels with purse seines. I am acquainted with thirty or forty vessels which run out of Lunenburg every year, and none of these carry purse seines.

5. The throwing overboard of gurry which is practiced on the grounds is very injurious to the fishing-grounds.

6. Unless the Americans got bait and ice they could not carry on the fishery of cod and halibut.

GEORGE CONRAD.

Sworn to at Lunenburg, in the county of Lunenburg, this 4th day of August, before me.

JOSEPH W. LOCKHART, J. P.

No. 87.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, GEOFFREY COOK, of Rose Bay, in the county of Lunenburg fisherman, make oath and say as follows:

1. I have been sixteen years constantly engaged in the fishery. I have for two years fished as skipper. I have fished around Cape Breton, Prince Edward Island, on the eastern side of New Brunswick, on the Labrador coast, and along the southern coast of Nova Scotia. I have caught mackerel for bait, and have been mostly engaged in taking codfish, and am at present well acquainted with the inshore fishery in Lunenburg County.

2. While in the Bay of Chaleur, the summer before last, I saw many American vessels there engaged in fishing, and have also seen many of

them there fishing since 1871. I have counted the summer before last fifty American vessels within three-fourths of a mile from each other. The most of the American vessels which I saw fished inshore around the above-mentioned coasts. I saw them take both codfish and mackerel inshore, within three miles of the shore. Mackerel are taken mostly all inshore, and I would not fit out a vessel to take mackerel unless she fished inshore.

3. Including the codfishermen on the Banks and those in the bay, there are as many of them as of mackerelmen. I mean the Banks around our coasts. So many Americans take away the fish from us; they lee-bow us. I have often seen them run into Nova Scotian vessels, and so many of them make it dangerous for our fishermen.

4. The American mackerel men take about four hundred barrels of mackerel to each vessel, and generally make three trips. The mackerel men carry from seventeen to twenty-one of a crew, and take the most of their mackerel inshore, within three miles of the shore. The codfish vessels carry from twelve to fourteen men, and take about a thousand quintals, and make from two to three trips. They take this codfish inshore when they can get it, and wherever they can. I have seen as many as eighty American vessels at one time taking mackerel within two and three miles of the shore at once. This I have seen during the past four years.

5. The throwing overboard of offal is injurious to the fishery, as it gluts the fish and drives them away, and the sound-bone, which is thrown overboard, is injurious to the fish.

6. The Americans in my experience always fished inshore when they could, whatever the treaty was. They made off when a cutter appeared, and returned when she went away.

7. The inshore fishery, in my opinion, is of the greatest value. On the Labrador coast we always catch the codfish inshore, often with seines on the shore; and I have seen, during the past sixteen years, large numbers of Americans seining codfish on the Labrador coast, and I have seen them do this every year for the past sixteen, and also last year.

8. I have seen the Americans catching bait within three miles of the shore, around Prince Edward Island. This bait was used for taking codfish. They catch and buy bait all along the coasts and wherever they can get it. They make the bait scarce for our bankers by gobbling it up before herring and mackerel are plenty.

9. Fish have not increased since 1871, particularly mackerel. This I consider is owing to overfishing, and the bad methods employed by the Americans in taking fish.

10. The herring fishery is all inshore, and the Americans take them in large quantities on the Labrador coast, mostly by seining from the shore.

11. Without bait, and ice in which to preserve it, the Americans could not carry on the deep-sea fishery, as fresh bait is necessary. This bait the Americans get all around our coasts, and buy it often, because it saves time and expense.

12. I have never known nor heard of any of our fishermen going to fish in American waters, and I consider this right of no value.

13. The Americans hinder our fishermen by taking away the fish, as already stated, and I consider that it would be a great benefit to us if the Americans were excluded from our inshore fisheries, and I know of no benefit that we derive from American fishermen.

JEFFREY COOK.

Sworn to at Rose Bay, in the county of Lunenburg, this 8th day of August, A. D. 1877, before me.

JAMES H. WENTZEL, *J. P.*

No. 88.

In the matter of the Fisheries Commission at Halifax under the Treaty of Washington.

I, DANIEL GETSON, of Getson's Cove, in the county of Lunenburg, master mariner, make oath and say as follows:

1. I have been engaged in fisheries for sixteen years. I have fished along the southern coast of Nova Scotia, around Cape Breton, on the eastern coast of New Brunswick, around Prince Edward's Island, the Magdalenes, and on the Canadian coast of Labrador, and I have also been personally engaged in Bank fishing and am well acquainted with the inshore fishing in Lunenburg County. I have taken mackerel, herring, and codfish, and all the kinds of fish found on the above-mentioned coasts.

2. I have seen at one time in the North Bay five hundred American mackerelmen at least. I have made calculations along with Nova Scotian and American skippers, and one fall we concluded there were 700 sail in the said bay. This calculation was made about five years ago. During the last five years I have seen the Americans in the North Bay in very large numbers.

3. Mostly all the mackerel are taken inshore, and it would not pay us to go there unless we could take them within three miles of the shore, nor would I go, as I intend to do in a week's time, unless I could catch them within three miles of the shore. The Americans often lee-bow us, and I have been run into by American vessel, and have suffered from five to six hundred dollars loss.

4. The Americans get bait from Cape Sable to Labrador, all round the Canadian coast, and without this bait it would be impossible for them to catch fish upon the Banks.

5. The Americans take codfish principally by trawling, and very seldom use hand-lining. Trawling I consider bad for the fishery, as it destroys the mother fish.

6. I have seen the Americans use purse-seines inshore and off shore, and this purse-seining I consider very injurious to the fishery, as they take the small fish, and many fish are destroyed. I have never seen a Canadian vessel use a purse seine.

DANIEL GETSON.

Sworn to at Getson's Cove, in the county of Lunenburg, this 8th day of August, A. D. 1877, before me.

JAMES H. WENTZEL, *J. P.*

No. 89.

In the matter of the Fisheries Commission at Halifax under the Treaty of Washington.

I, DAN RISSER, of Rose Bay, in the county of Lunenburg, fisherman, make oath and say as follows:

1. I have been engaged in fishing for twenty-five years. I have fished in the Bay of Chaleur, around Cape Breton, eastern side of New Bruns-

wick, around Prince Edward Island, the Magdalenes, and on the Labrador coast, and am well acquainted with the inshore fishery in Lunenburg County.

2. I have fished mackerel and codfish. In fishing mackerel we took them mostly inshore, and it would not have paid us to have gone unless we could take them inshore.

3. I have fished for twenty-five years in succession on the Labrador coast, and got codfish close inshore. We got all our codfish close inshore within three miles. I have during the said time seen a number of American vessels taking codfish inshore on the Labrador coast, and this I have seen every year for the past twenty-five years. I have also, during the said time, seen many Americans catching herring inshore on the Labrador coast. So many Americans diminish the catch for Canadian vessels.

4. The Americans get bait, and ice in which to preserve it, all along our coast; and, in my experience, codfish cannot be taken without fresh bait.

5. In my opinion, it would be a great benefit to Canadian fishermen if Americans were excluded from our inshore fisheries.

DAN RISSER.

Sworn to at Rose Bay, in the county of Lunenburg, this 8th day of August, A. D. 1877, before me.

JAMES H. WENTZEL, *J. P.*

No. 90.

In the matter of the Fisheries Commission at Halifax under the Treaty of Washington.

I, JAMES W. SPEARWATER, of New Dublin, in the county of Lunenburg, fisherman, make oath and say as follows:

1. I have been engaged in the fisheries for the past two years, and have fished on the eastern and northeastern side of Cape Breton, on the Western Banks, and on Bank Quaero, on the southern side of Cape Breton. I fished codfish.

2. I left here this year on the tenth of April, and last year about the same time. The vessel in which I went last year carried sixteen hands, and was fitted out to take fourteen hundred quintals. The vessel in which I sailed this year was fitted out to take eighteen hundred quintals. We took six hundred quintals, and were out about four months.

3. I have often seen many American vessels there engaged in taking codfish. The American vessels on the Banks take the greater part of their fish by trawling. Trawling is carried on to the bottom, and mother fish are taken.

4. This year the vessel in which I was, and which is owned here, procured her bait at Eastern Passage, in Halifax County; at Cape George, in the county of Halifax; at Cape George in the county of Antigonish; at St. Ann's and Aspy Bay in Cape Breton. While at these places I saw American vessels getting bait and ice the same as our own vessels; herring and mackerel we bought; squid we mostly jigged. Without this bait and ice it would be impossible for the Americans or for us to carry on the Bank fishing. The Americans also got ice at these places to preserve their bait. The Americans get bait when it is scarce, and their getting bait interferes with our baiting.

JAMES W. SPEARWATER.

Sworn to at New Dublin, in the county of Lunenburg, this 9th day of August, A. D. 1877, before me.

BENJ. RYNARD, *J. P.*

No. 91.

In the matter of the Fisheries Commission at Halifax under the Treaty of Washington.

I, WILLIAM N. ZWICKER, of Lunenburg Town, in the County of Lunenburg, merchant, make oath and say as follows:

1. I have been engaged in the buying and selling of fish for about twenty-five years, and have had a number of vessels engaged in the taking of fish for the said time. Those vessels were engaged in taking mackerel, codfish, and herring around Cape Breton, Prince Edward Island, east side of New Brunswick, and the Magdalenes, and am acquainted with the inshore fishery in the county of Lunenburg.

2. The fitting out of vessels for the mackerel fishing has been almost discontinued in the county of Lunenburg. Mackerel is taken to some extent along the shore of this county in nets, and are taken inshore. There is a larger trade done in herring in Lunenburg during the past six years than any time previous. On the Banks during the past four years the catch of codfish has been good.

3. The Americans carry on the cod-fishery principally by trawling, and in my opinion this is a very injurious method of taking fish, and will eventually destroy the fishing grounds. When our men first went out fishing they caught fish with hook and line; now they practice trawling on the Banks in order to compete successfully with the Americans. The throwing over of offal on the grounds I also consider injurious to the fishery.

4. The Americans have fished inshore treaty or no treaty, and when the fishery was protected our mackerel men made better fares. Since the Treaty of Washington the Americans have fished inshore so extensively that they have driven our mackerel men out of the business.

5. In my opinion the inshore fishery are two-thirds the value of the entire fishery.

6. Among the masters of my vessels it was a common complaint that the Americans lee-bowed them and drew away the fish off shore by throwing overboard bait.

7. In my opinion the plan of taking mackerel with purse-seines is improper and injurious to the fishery.

8. The Americans purchase bait all around our coast in the county of Lunenburg, and wherever they can get this privilege of getting bait inshore, is a great injury to the Canadian fishery, as the price of bait is thus made much greater for Canadian vessels, and also more difficult to get. The Americans get this bait and ice in which to pack it, before the mackerel and herring set in, in large quantities. By buying bait the Americans save time and expense.

9. The herring fishery on this coast is all inshore, and our vessels also catch herring inshore on the coasts of Labrador and Newfoundland. The Americans purchase the inshore herring and mackerel for bait.

10. I have purchased American mackerel and found them inferior in quality to Canadian mackerel.

11. Unless the Americans were able to purchase bait or catch it, and ice in which to pack it, it would be impossible for them to carry on the

deep-sea fishery. Without ice the Americans could not preserve their bait.

12. No vessels have ever gone out of Lunenburg County to fish in American waters, because our own grounds are better and nearer.

13. So many American fishing-vessels hinder Canadians by carrying off the fish by lee-bowing them, enticing away the fish, and taking fish by improper means.

14. I have often heard from those engaged in the fisheries around our coast, that they obtained goods from the Americans in exchange for fish, thereby injuring the honest dealer, and defrauding the revenue.

15. Our fisheries are of the greatest value to us, and I know of no equivalent which the Americans can give us; and if they were excluded it would be of great value to us.

W. N. ZWICKER.

Sworn to at Lunenburg, in the county of Lunenburg, this 6th day of August, A. D. 1877, before me.

HENRY S. JOST, *J. P.*

No. 92.

In the matter of the Fisheries Commission, at Halifax, under the Treaty of Washington.

I, ISAAC LOHNES, of Middle La Have, in the county of Lunenburg, fisherman, make oath and say as follows:

1. I have been engaged in the fisheries for twenty-eight years past every year down to the present time. I have fished all along the southern coast of Nova Scotia, around Prince Edward Island, on the eastern coast of New Brunswick, around the Magdalenes, and on the Canadian coast of Labrador, and am well acquainted with the inshore fishery in Lunenburg County. I have taken all the kinds of fish found upon the above-mentioned coasts.

2. I left the North Bay a week ago where I was engaged in cod-fishing and saw from day to day about ten American vessels engaged in taking mackerel with purse seines. About five years ago I along with Canadian and American skippers have made calculations as to the number of American mackerel men in the North Bay and we concluded there were seven hundred sail.

3. Mackerel in my experience are taken mostly all inshore, and it would not pay to fit out a vessel to take mackerel unless they can be taken inshore within three miles. The American mackerel men carry from seventeen to twenty-four men. They take from two to three hundred barrels to each vessel, on each trip, and generally make three trips each year.

4. The American vessels carry from twelve to fifteen men and take about a thousand quintals to each vessel. They make three such trips including a trip to the Banks. At present I would say that there are upwards of fifty codfish vessels in the North Bay, which are American.

5. Mackerel in my experience has varied, being some years good and others poor. In 1872 the catch of mackerel was good and they were plentiful in the North Bay when I left. From 1871 to 1876 the cod-fishing has been as good as I ever saw it any time previous. During the past two years it has not been quite so good. Herring has always been plenty except this summer when it has not been so good.

6. The Americans within the last three years have taken mackerel

mostly by seining; previous to that time they took them mostly with hook and line. The Americans take all their codfish by trawling. They take herring in seines.

7. In my experience the Americans fished inshore when they could. When they saw the smoke of the steamer or saw a cutter they made off and returned whenever they got out of sight.

8. The inshore fisheries are more than twice the value of the off shore fisheries.

9. The purse seines used by the Americans are very injurious, as they take all kinds of fish in them, herring, squid, &c. All except the good-sized mackerel are thrown away. I never saw a Canadian vessel use or have a purse seine.

10. The Americans from Cape Sable, in Nova Scotia, to Labrador, catch and buy bait and ice in which to preserve it in the bays and harbors of the Dominion of Canada. By buying, they save time and expense, as it would require considerable to fit them out with gear to catch bait.

11. The Americans catch codfish and haddock inshore in Canadian waters. The haddock they catch they throw away; they also catch halibut inshore. The livelihood of thousands of our people depend upon these inshore fish.

12. Since 1871, in my opinion, there has been an increase in the inshore fish.

13. The Americans, since 1871, have injured the Canadian fisheries by carrying off large quantities of fish by trawling and seining.

14. Herring are taken all inshore, and are not caught out beyond 3 miles. The Americans take them in large quantities around the Magdalenes and on the Labrador coast, by seining on the shore, and make them scarce there for our men.

15. The mackerel make inshore to feed, they spawn inshore, and are taken inshore. Their principal places for spawning and breeding is around Prince Edward Island, the Magdalenes, and eastern side of Cape Breton.

16. I have often seen the Americans transshipping their cargoes at the Strait of Canso; by so doing they save time and take more fish.

17. If the Americans could not get bait in Canadian waters they could not carry on the Bank fishing. They come round the coast here when bait is not plentiful, and make it scarce for over a hundred vessels which require bait out of the River La Have every year.

18. Without ice the Americans could not preserve their bait, and they must have bait fresh.

19. I have never known nor heard of any Canadian vessels fishing in American waters, nor do I consider this right of any value to Canadian fishermen that I know of.

20. The Americans injure Canadian fishing by taking such large quantities of fish by employing improper methods in taking fish by leebowing and running into our vessels.

ISAAC LOHNES.

Sworn to at Middle La Have, in the county of Lunenburg, this 8th day of August, A. D. 1877, before me.

JAMES H. WENTZEL, *J. P.*

No. 93.

LAWRENCE FORTUNE, aged 57 years, fisherman, residing at Toad's Cove, Newfoundland, maketh oath and saith:

I have been practically acquainted with the Newfoundland fisheries for forty-two years, and know all about them. I have seen many United States vessels in this neighborhood. Five or six of them anchored here twice a week and sometimes three times a week last year; large numbers of them were constantly coming and going. They come for herrings, caplins, and squids for bait, and ice to preserve such bait fresh. I did not note the names of these vessels, but am satisfied they belonged to the United States of America. Our people left their own fisheries to supply them with bait. I have seen them using our people's seines hauling herrings in August, and among our fishermen jigging squids after fifteenth or twentieth of August. Newfoundland fishermen catch codfish generally within one mile of the shore. The caplin, herrings, and squids caught for bait are all taken inshore, in the coves and harbors of our bays. I never heard of a Newfoundland vessel engaging on a fishing voyage on any of the coasts or shores of the United States of America. United States fishermen have sold nets, Bank lines, ropes, and other fishing-gear in this neighborhood, and they have also sold on our shores codfish and oil, particulars of which I cannot give.

The supply of bait to the United States fishermen has certainly very much injured the supply to our local fishermen by decreasing the same.

In my opinion it is as true as that the sun is shining, that the operations of United States vessels fishing on the outer Banks off our shores, well supplied with fresh bait, tend very much to reduce the catch of codfish by our local fishermen, and that the short catch of codfish along our south and west coasts the past year was, in a great measure, caused by their fishing operations as aforesaid.

The average catch per hand for 1874, '75, and '76, in this neighborhood, has not been more than fifteen quintals; previous to these years the average has been fifty-five to sixty-five quintals per hand. This reduction of catch I attribute to United States fishermen, in their operations along our shores for bait, and on the Banks off our shores, lining the ground with fresh bait which codfish will not pass.

In conversations with captains of some of these United States fishing-vessels, I learned from them that they consider the fresh bait procured on our shores was the means of greatly advancing their interests, by enabling them to catch much larger voyages.

Generally, there are icebergs in this neighborhood, close to shore, which United States vessels use to preserve bait, and they have said it is all-important to their fishery; that they are enabled to run into our harbors—as one of their captains told me—in fifteen hours from the Banks, procure bait to be used fresh on the Banks in from eight to twelve hours after being put on board. This is what was stated to me by a captain of one of their vessels—his name was O'Donnell or McDonnell.

My opinion is that the operations of Americans baiting on our shores and fishing on the Banks with fresh bait supplied by our fishermen, is ruinous to our fisheries, and will tend every year more and more to operate against us. The value of what they pay for bait purchased from our people is not a "drop in the bucket" to the permanent benefits which would result from a steady prosecution of the cod-fishery.

LAWRENCE FORTUNE.

Sworn before me at Toad's Cove, this 13th day April, 1877.

J. O. FRASER,

Commissioner of Affidavits.

No. 94.

THOMAS CAREW; 67 years; planter; residing at Shores Cove, Cape Broyle, Newfoundland, maketh oath and saith :

I have been intimately acquainted with the fisheries of Newfoundland since I was fifteen years of age, as a fisherman. I have observed a large number of United States fishing-vessels in this neighborhood. Last year there were upwards of forty of these vessels in this locality, there being twenty-one anchored together within sight of my windows, all after fresh bait, which they procured in one, two, and three days. They came solely for bait and ice or to refit. When they came for caplin, they bargained with our seine owners who furnished seines and gear and part crew; each seine being worked in part by two, three, and four United States fishermen, who take the bait from the seines and carry it on board their vessels. Usually, in such cases, they pay the owner of the seine twenty dollars for whatever bait they procure. Generally, they take from thirty to forty barrels caplin. For squid bait they catch and purchase as they can get them, but are getting into the way of bargaining with our people to catch squids in advance of their arrival so that they may have no delay. They each take from thirty to forty barrels squids per trip. They bought ice from Mr. Cashen, Cape Broyle, until they cleared him out. First part of season they got a supply of ice from bergs that drifted into our coves. When they can't get ice American captains salt their bait, but they say salt bait is not nearly so good.

There were over two hundred United States fishing-schooners frequenting our harbors and coves last season between St. John's and P'passy, all after bait. Newfoundland fishermen, in general, fish for cod within a mile of our shores. The caplin, herrings, and squids used for bait are caught in coves along our coasts close to shore, and never at a distance of three miles from our coast.

I never heard of a Newfoundland vessel engaging in any fishing voyage on any of the shores or coasts of the United States of America.

United States fishermen last year sold codfish and oil in this locality. The Cashens purchased about six tons oil besides codfish. They also sold fishery produce at Bay Bulls, but as to quantity I can say nothing. They sold fish and oil wherever they anchored, to purchase bait, ice, and refittings for their vessels, except in cases where they gave orders on the United States consul, which they did in rare instances only. The captains also gave orders in several instances on their owners for light dues.

I am of very strong opinion that the supply of bait to United States fishermen decreases the supply to local fishermen. Last year Americans swept the ground of squids in this locality, leaving our fishermen without bait for six weeks. There is a great difference between the workings of United States fishermen for caplin for bait, and of our own people. They do more damage in a week than we could in a year; their vessels each take more caplin for a trip than our whole fishing population, Cape Broyle included, would require for a season. I therefore am of opinion that United States fishermen in their operations for bait will greatly injure and probably destroy the caplin fishery, as they certainly will the squid fishery.

I cannot believe otherwise than that the presence of the large number of United States vessels known to be on the Banks each season fishing for codfish, and well supplied with fresh bait, interferes with and tends greatly to reduce the local catch of fish along our shores, and feel certain, in my own mind, that their operations were the cause, to

great extent, of the short catch of codfish last year on these south and western shores. The average catch of codfish per hand for the years 1874, 1875, and 1876 would not be more than twenty quintals, which is a large estimate. Previous to 1874 the average catch per hand has been from forty to fifty quintals. I cannot understand what affects the fishery or causes this reduction except the operations of United States fishermen on our shores and on the outer Banks facing our shores. I am now old and have not much interest in the fisheries, except for the rising generation, but I feel certain that these American fishermen will ruin our fishery, and our bait supply. I have had sufficient experience during my life following the fisheries to convince me that their mode of operations from first to last, on our shores and on the Banks, is the very worst for our country and the surest means of destroying our fisheries.

THOMAS CAREW.

Sworn before me at Shores Cove, Cape Broyle, this 13th April, 1877.

J. O. FRASER,

Commissioner of Affidavits.

No. 95.

CHARLES JAMES BARNES, aged 33 years, occupation, fish-curer, residing at St. John's, Newfoundland, makes oath and saith :

Deponent has had practical acquaintance with the fisheries of Newfoundland for upwards of fifteen years.

Deponent saw a number of United States fishing-vessels in this harbor last year ; these vessels came here for bait and ice, and to replenish their ships' stores and refit their vessels for fishing on the Banks.

Deponent sold bait and ice and stores to a number of United States fishing-vessels last year.

Deponent bought small codfish and cod-oil from United States fishermen last year in payment of bait, ice, and cost of refitting their vessels ; in some instances deponent purchased small codfish for which he paid in cash. The total quantity of small codfish purchased by deponent last year from United States fishermen was upwards of three hundred quintals, for which he paid prices ranging from eight shillings to eleven shillings per quintal of 112 lbs. green fish.

Deponent also purchased a considerable quantity of cod-oil from United States fishermen, particulars of which he has not at hand. He further states he is prepared to purchase any reasonable quantity of small fish and oil from United States fishermen. The United States fishing-vessels at this port last year came in for fresh bait and ice, which they purchased from our people. In one instance, one of these vessels sailed with a full supply of bait in sixteen hours after arrival, and generally they baited in from three to six days, the price paid for bait averaging about one dollar per barrel. There are to-day two United States fishing schooners in this harbor for bait and to repair damages. Their names are the Speedwell, Henry A. Cobb, master, and the Peter D. Smith, Brown, master. In conversation with Captain H. A. Cobb aforesaid, and his mate, Jonathan Sparrow, of Provincetown, Mass., they acknowledged to me that it was of very great advantage to United States fishermen that they were privileged to frequent Newfoundland harbors for fresh bait and ice. The persons named aforesaid stated that the only bait obtainable on the Banks is squids and hagdown, the latter late in the season in limited quantities and being inferior bait. Squids are only

obtainable in certain localities along the Banks, and very uncertain; not obtainable more than once in three years in sufficient supply for baiting purposes. The difference between the time occupied in baiting in Newfoundland ports, and as United States vessels were accustomed to bait formerly, was stated by Sparrow aforesaid, who last year went in his vessel from the Banks to Cape Canso, where he spent three days and a half, and was the same time in reaching that place. Not finding bait there, he proceeded to St. Pierre, which took him one and a half days. He remained there five days, but not getting bait he proceeded to Conception Bay, N. F., where he got his bait in two and a half days going there, he thus being 18 days in procuring his fare of bait; and he further said that if he had come direct to Newfoundland for bait, he would not have occupied one-third the time in obtaining his bait; that he had prosecuted the Bank fishery for fifteen years, and knew that the general average of the time taken by vessels to procure their bait elsewhere than on the Newfoundland shore has been twenty days.

CHARLES JAMES BARNES.

Sworn before me, at St. John's, Newfoundland, this 5th day of June, A. D. 1877.

J. O. FRASER,
Commissioner of Affidavits.

No. 96.

PHILIP GROUCHY, aged 62 years, planter, residing at Pouch Cove, Newfoundland, maketh oath and saith:

I have become acquainted with the fisheries of Newfoundland since I was 14 years of age, and know them in all their branches. I have seen many United States fishing schooners on these shores; one only of these schooners visited this harbor; the master's name was Mulloy, but I did not hear the name of his vessel. He came here for fresh bait and got fifty barrels caplin, which he got by hiring my seine and two men, completing the crew from among his own men. For the use of the seine and my man this Captain Mulloy paid four dollars, and one dollar to the second shoreman working the seine. There was no ice-house here last year, but there were plenty icebergs here about when Captain Mulloy visited this harbor last year, and he said he expected to get what he wanted from that source. I have heard that ice-houses are being put up at Torbay for selling ice to United States fishermen.

Newfoundland fishermen catch fish within three miles of the shore. The Newfoundland cod-fishery is an inshore fishery. The caplin, herring, and squid for bait are all caught inshore, taken in the coves and creeks along shore.

I never heard of a Newfoundland vessel engaging on a fishing voyage on any of the coasts of the United States of America.

United States fishermen regularly sell small codfish and cod-oil in our harbors; they did so in Torbay and St. John's.

I am very certain that the supply of fresh bait to United States fishing vessels will decrease the supply to local fishermen. Last year a very heavy supply of herring bait in Conception Bay to United States fishermen must have caused the scarcity we all suffered from, for we depend upon Conception Bay for bait after the caplin, and we found herrings and squids more scarce than formerly. We fishermen judge that this scarcity of bait is owing to the operations of United States fishermen in our bays and harbors.

I think it evident that the large number of United States fishing vessels fishing on the Banks, well supplied with fresh bait, tends to retain fish on the Banks and prevent their passing in toward our shores.

United States fishing vessels baiting on our shores, having no delay, go out upon the Banks in twelve or fifteen hours from time of leaving our harbors. This facility enables them to keep the ground on the Banks constantly baited with fresh bait. The average catch of codfish per hand for fishermen in this neighborhood, last year and year previous, has been fifteen quintals; previous to these years the average catch per hand each year was forty quintals.

We constantly get American hooks in fish taken along this shore, proving that United States fishermen are at work opposite to us. We have large experience that whatever piece of ground is used by our own people with bultows, that there the fish is kept from passing toward the shore, and as long as we keep fresh bait on such bultows codfish are kept in the neighborhood of these bultows.

PHILIP GROUCHY.

Sworn before me, at Pouch Cove, this 17th April, 1877.

J. O. FRASER.

Commissioner of Affidavits.

ALBERT GROUCHY, aged 35 years, planter, residing at Pouch Cove, Newfoundland, maketh oath and saith:

I have followed the fishery in this country since I was fourteen years of age. I was present when Philip Grouchy made the above statement, which I know to be true in every particular.

ALBERT GROUCHY.

Sworn before me, at Pouch Cove, this 17th April, 1877.

J. O. FRASER,

Commissioner of Affidavits.

No. 97.

List of fishing-vessels calling for fresh bait and ice.

No.	Vessel's name.	Tonnage.	Master's name.	Where belonging.
1	J. S. Presson	70	Not known	Gloucester.
2	Brisk	68		Do.
3	Harvey C. MacKay	64	A. McInnis	Do.
4	Clytie	72	Joseph Nolan	Do.
5	Carrie P. Morton	84	Downs	Do.
6	Aberdeen	70	John Viberts	Do.
7	Mist	72	Curron	Do.
8	Shiloh	85	Philip H. John	Do.
9	Concord	74	John Dago	Do.
10	Carrie S. Dagle	74	J. D. Norward	Do.
11	W. L. Wetherell	69	J. M. Innis	
12	Andrew Lighton	83	Peter Hamplin	Provincetown.
13	C. L. Morgan	64	Charles McNeil	Beverly.
14	Mary Curren	102	Duncan Matherson	Provincetown.
15	Camelia	54	A. McCritchey	Do.
16	Star King	63	J. A. Matherson	Do.
17	Benjamin R. Rich.	68	Samuel Lowring	Do.
18	Treasurer	70	Benj. Anderson	Lunenburg.
19	Naiad Queen	42	Ed. Thiboh	Provincetown.
20	C. F. Maybo	80	Richard Morrison	Do.
21	C. H. Hodgdon	112	William Foster	Do.
22	Frank A. Williams	64		Do.
23	Andrew Laden	83		Gloucester.
24	Ululune	84	W. T. Wickens	Nova Scotia.
25	Conductor	73	G. H. Curtis	Gloucester.
26	Bunker Hill	100	J. MacDonald	Do.
27	Holward Holdbrook	97		Do.
28	Oceana	71		Provincetown.
29	Isaac Keen	77	Norman McKenzie	Do.
30	Belle Bartlette	75	John Cummings	Do.
31	Arthur Clifford	84	John McDonald	Do.
32	Laura Sayworth	68		Do.
33	D. W. Wilson	90		Do.
34	Montezuma	65		Beverly.
35	Charles H. Reid	74	John Dago	Provincetown.
36	C. M. Walton	52	Camel	Do.
37	Reporter	83	Kelley	Gloucester.
38	G. B. Foster	64		Beverly, Mass.
39	W. E. Macdonald	89	Macdonald	Gloucester.
40	Ellen Parsons	91	McNeil	Do.
41	Hattie L. Norman	98	W. H. Robinson	Beverly, Mass.
42	Ripley	68	James McCarty	Do.
43	Jacob Bacon	84		Gloucester.
44	Hattie Weston	95	Craig	Do.
45	New England	86	Hynes	Do.
46	Mattie F. Foster	96	M. C. Foster	Do.
47	Lizzie B. Knight	67	Thos. Lobam	Do.
48	Betsy	70	Sullen	Marblehead, Mass.
49	Lucretia Jane	88	Geo. Larkin	Gloucester.
50	Marion	82	Silas Colden	Do.
51	W. R. Page	80	G. W. Helard	Do.
52	Nathl. Webster	77		Do.
53	Cygnnet	89	J. P. Brown	Halifax.
54	S. L. Lane	72	P. McKenzie	Gloucester.
55	White Foam	60	Thomas Nicholson	Bucksport.
56	Ella Mary	96	E. C. Maybo	Provincetown.
57	Willie A. Jewell	70	Alex. MacDonald	Provincetown, Mass.
58	Wave	53	Kelley	Plymouth, Mass.
59	Helen	66	Cambell	Beverly, Mass.
60	Leading Breeze	69		Provincetown.
61	Lynx	59	Goodwin	Yarmouth, N. S.
62	Hattie S. Clarke	70	Thompson	Gloucester.
63	Epas Tarr	70	Lude de Noe	Do.
64	Oriend	64	A. C. Hilard	Beverly, Mass.
65	D. Shurman	71	J. Nickerson	Gloucester.
66	Gussey Blaisdale	89	Orlando F. Hamburg	Do.
67	Wide Awake	70	Morrisey	Yarmouth, N. S.

I, William Tulk, preventive officer at Portugal Cove, Newfoundland, hereby declare that I boarded each of the vessels above enumerated; that these vessels belonged to the United States of America, except five said to belong to Nova Scotia, and came into ports and harbors in the vicinity of Portugal Cove aforesaid, Portugal Cove included, for fresh bait; and that in addition to these vessels there were about fifty United

States fishing vessels off and in Broad Cove, Torbay, and Portugal Cove aforesaid, the particulars of name and tonnage of which I did not take a note of, but I know these vessels also belonged to the United States, and came for fresh bait, which they, with the vessels first referred to, procured, catching in part and buying in part from local fishermen. The price paid for the first squids was ten cents, afterward it was raised to fifteen cents, and then to twenty cents per hundred squids.

WILLIAM TULK.

Sworn before me, at St. John's, this 30th July, A. D. 1877.

J. O. FRASER,
Commissioner of Affidavits.

No. 98.

JAMES PICOT, aged 78 years, residing at Portugal Cove, Newfoundland, maketh oath and saith: I have followed the fishery of Newfoundland when my mother was obliged to dress me; that is, for over sixty-five years. I know all about the fisheries.

I saw a great many United States fishing vessels in this neighborhood last year, off and on, between first August and end of October. There were eight here at one time, but also a large number coming and going. These eight hit it very nicely; they came about noon, with wind N. E. That evening and next morning they got their bait, all over fifty barrels and some one hundred barrels, and in the evening about two o'clock they all left for the Banks with a fair breeze from the westward, which increased to a fine sailing breeze or as much as they could fly away with, and we all said they were very fortunate, as they would be on the Banks in about forty-eight hours from the time of starting therefrom. They purchase from our people principally, but they do put out their dories and go upon the jigging ground themselves.

Newfoundland fishermen generally catch fish within a mile of our shores; hereabouts we fish within a half a mile. The caplin and herrings for bait are taken in shoal water close to shore; squids are taken in up to twenty-five fathoms of water.

I never heard of a Newfoundland fishing vessel prosecuting any fishery on any of the shores or coasts of the United States of America. United States fishing vessels have sold cod-oil in this neighborhood last year, and provided themselves with water. When bait happened to be scarce their crews used to come on shore and go scampering over the hills for "harts." They made repeated raids for harts, which freshened them up and took the stiff out of their joints.

I think the supply of bait to United States fishermen, last year, very much shortened the supply to our own people. I do believe the traffic by them with herrings has something to do with the non-appearance of herrings this spring in this locality, which I never knew to be so scarce before with such fine open weather. We have had nets out since Saint Patrick's day and have not caught five dozen herrings.

I do believe that the United States fishermen on the Banks off our coasts, well supplied with fresh bait, tends greatly to reduce the catch of codfish by local fishermen, and that the short catch along the south-west coast last year was mainly attributable to their operations. The average of the catch of codfish per hand in this harbor for 1875 and 1876 would not exceed forty quintals. Previously, the catch would run from eighty to one hundred quintals per hand.

There is an ice-house here for keeping ice for sale to United States vessels.

The general belief among fishermen is that the traffic of these United States fishermen in our waters will ruin our fishery.

his
JAS. + PICOT.
mark.

Sworn before me, at Portugal Cove, this nineteenth April, 1877.

J. O. FRASER,
Commissioner of Affidavits.

MARK PICOT, aged 37 years, fisherman, residing at Portugal Cove, Newfoundland, maketh oath and saith :

I was present when the above statement was made by James Picot, and excepting as relates to his age and the time he followed the fishery, I know the said statement to be true in every particular.

MARK PICOT.

Sworn before me, at Portugal Cove, this nineteenth April, 1877.

J. O. FRASER,
Commissioner of Affidavits.

No. 99.

DANIEL TUCKER, aged 34 years, fisherman, residing at Broad Cove, Newfoundland, maketh oath and saith :

I have followed the fisheries of Newfoundland since I was ten years of age. I have seen eight United States fishing schooners in this cove at one time, and as many as twenty off and on. The Mary Carlyle was one of these vessels ; Jo. F. Allan another ; Henry Wilson another. Captains McDonald, Greenlief, and Hines were among their captains.

The note I show you is from Captain John Campbell, of the schooner Joseph F. Allan, and it says, "Catch all the squid you can, and I will pay for them, and take them sure." United States fishermen caught what bait they could while they were here, but they could not supply themselves quick enough, and so they engaged our people to catch for them, whom they paid from ninepence to two shillings per hundred squids. Each United States vessel would take about forty barrels squids, some as high as fifty, and others twenty-five, but averaging forty when they could get them. They got their bait without delay. Captain Campbell was only a few hours ; the last men, when bait was scarce, were longer. Some of these vessels had pilots from the shore, Squires, of this cove, being pilot on board one of them. These American schooners took from eight hundred to nine hundred barrels squid. The people here very generally gave up cod-fishing to catch squids for these United States vessels, and this greatly to the injury of our people, who would have been better off, however scarce fish might have been, had they stuck to the cod fishery.

Newfoundland fishermen catch codfish generally within a mile of the shore. The caplin, herring, and squid, caught for bait, is taken close to our shores.

I never heard of a Newfoundland vessel prosecuting any fishing-voyage on the coast or shores of the United States of America.

United States fishermen sold codfish and oil in this cove last year ; they sold, to my knowledge, one lot of eighteen hundredweight codfish,

at seven shillings per hundredweight, and for the five casks oil sold by them they were paid two shillings and sixpence per gallon.

The large supply of bait to United States fishermen decreases the supply to our local fishermen. The herring was never known to be so scarce as this spring. The cod fishery along shore is injuriously affected by the large supply of fresh bait on the Banks to United States fishermen, which prevented codfish passing toward the shore; and I believe the short catch along our southwest shores last year was on account of their fishing operations in bait and on the Banks.

The catch last year was not more than one-half what it was before 1874; to say a fourth would be nearer the correct thing. We believe they wont leave a fish for us to catch. One of the captains told me that this year we would not see the light through the tackle, they would be so numerous, and we fully expect them.

DANIEL TUCKER.

Sworn before me, at Broad Cove, Cramp Bay, Newfoundland, this 19th April, 1877.

J. O. FRASER,
Commissioner of Affidavits.

JOSEPH TUCKER, aged 47 years, fisherman, residing at Broad Cove, Cramp Bay, Newfoundland, makes oath and saith:

I was present when Daniel Tucker made the above statement, and know that it is true in every particular, having had practical experience in the fisheries since I was ten years of age.

JOSEPH TUCKER.

Sworn before me, at Broad Cove, Conception Bay, Newfoundland, this nineteenth day of April, 1877.

J. O. FRASER,
Commissioner of Affidavits

No. 100.

PHILIP LEWIS, aged 44 years, fisherman, residing at Holyrood, Conception Bay, Newfoundland, maketh oath and saith:

I have prosecuted the fisheries of Newfoundland for 23 years and upwards. I saw a great many United States vessels in this neighborhood. Last spring there were a large number here—throughout the season there were upwards of twenty of these vessels here; among these I can only name a few of the captains in charge—Captains Morrissey, Keehan, Kane or King, Greenwood, Gray, Collinwood.

A St. John's man in charge of an American fishing schooner, who was among those who caught squids on Sunday. Deneif, whose vessel was at Harbor Main; Ryan, the latter was among those jigging squids on Sunday. There was so many, and most of them strange names to me I cannot recollect many of them.

These vessels came here to procure fresh bait. They did procure their bait here, purchasing the principal part and jigging a part for themselves. Their vessels anchored within a quarter of a mile from the shore. Each vessel took about twenty-five barrels and upwards from this place; some more. Their full supply of bait would be fifty barrels, but most of them had a part of what they required, which they procured in other harbors. They paid from sixpence to two shillings per hundred squids. There was no ice here for sale to them—they supplied themselves with ice elsewhere—and when their stock was out they salted their squids. The total

quantity of squids taken by them from this place last year would be over 500 barrels.

Newfoundland fishermen catch codfish generally within two and three miles of the shore. The herrings, caplin, and squids, caught for bait, are each taken close to shore.

I never heard of a Newfoundland vessel having prosecuted any fishery on any of the coasts or shores of the United States of America.

I have heard that United States fishing crews have sold small fish and cod-oil in this neighborhood, and that they did sell such produce here and at Harbor Maine. I purchased oil myself from them in payment of squids. The price of oil as paid by me was two shillings and fourpence per gallon.

The large supply of fresh bait used by United States fishermen on the Banks I fully believe tends to keep codfish from striking towards our shores, and thus affects the catch of local fishermen injuriously.

The punt fishery in this neighborhood has been much reduced the last two years. American captains told me that they did not know anything about Conception Bay for baiting purposes until last year, but that they found it the most convenient place to procure bait of any other they knew, and that they intended in future largely to avail of it for the purpose of procuring bait. Conception Bay is freer from dangers in approaching it than most bays, and has comparatively little fog, of which American captains spoke approvingly.

PHILIP LEWIS.

Sworn before me, at Holyrood, Newfoundland, this 24th April, 1877.

J. O. FRASER,

Commissioner of Affidavits.

JOHN VEITCH, aged 39 years, telegraph operator, residing at Holyrood, Nfld., maketh oath and saith :

I was present when Philip Lewis made the above statement, and excepting the part referring to the *number* of vessels at this harbor last year, I know the statement to be true in every particular. I saw five or six United States fishing-vessels here, but heard of a large number that I did not see. United States vessels regularly refit in this neighborhood. I sold one of these vessels flour that they were short of.

JOHN VEITCH.

Sworn before me, at Holyrood, Nfld., this 24th April, 1877.

J. O. FRASER,

Commissioner of Affidavits.

No. 101.

EDWARD O'BRIEN, aged 49 years, constable, residing at Cats Cove Newfoundland, maketh oath and saith :

I know the fisheries of Newfoundland from following the same since I was a boy, until ten years ago.

I have observed a number of United States fishing-vessels in this neighborhood last year, and the year previous there were five or six in Salmon Cove.

I saw a large number of these vessels at Holyrood, Belle Isle, Northern Gut, and in the offing in this bay. The vessels referred to came here for fresh bait, which they purchased and caught as best they could. The supply of bait to United States schooners decreases the supply to our local fishermen. I am of decided opinion that the presence of the

large number of United States vessels on the Banks, well supplied with fresh bait, tends to keep fish from passing toward our shores and largely decreases the catch of codfish by local fishermen, and that the short fishery last year was mainly attributable to their operations.

The vessels that called here last year for bait were supplied with ice before coming here; they procured their ice on other parts of the shore. There is no ice-house in this harbor. American vessels refit in this neighborhood, and have sold small fish and oil in Harbor Main, Holyrood, and elsewhere in this bay. All fishermen of this country believe that the traffic, as carried on by United States fishermen in our harbors, for fresh bait, and on the Banks off our coasts, is hurtful to our fisheries, and has already resulted in great damage to our bait fishery.

ED. O'BRIEN.

Sworn before me at Cats Cove, Conception Bay, Newfoundland, this 25th April, 1877.

J. O. FRASER,
Commissioner of Affidavits.

No. 102.

EDWARD WADE, aged 56 years, planter and fisherman, residing at Cats Cove, Newfoundland, maketh oath and saith:

I was present when Edward O'Brien made the statement before J. O. Fraser, on this day, marked A, which I know to be true in all particulars except as relates to the age of said Edward O'Brien.

his
EDWARD + WADE.
mark.

Sworn before me at Cats Cove, Conception Bay, Newfoundland, this 25th April, 1877.

J. O. FRASER,
Commissioner of Affidavits.

EDWARD MEANEY, 48 years, planter and fisherman, residing at Salmon Cove, Conception Bay, Newfoundland, maketh oath and saith:

I was present when Edward O'Brien made the statement marked A, on this day, before J. O. Fraser, commissioner of affidavits, and, except as relates to the age of Edward O'Brien, I believe said statement to be true in all particulars.

EDWARD MEANEY.

Sworn before me at Cats Cove, Conception Bay, Newfoundland, this 25th April, 1877.

J. O. FRASER,
Commissioner of Affidavits.

No. 103.

GEORGE BUTLER, aged 55 years, farmer, residing at Northern Gut, Conception Bay, Newfoundland, maketh oath and saith:

I have followed the cod fishery in Newfoundland for about fifteen years; but during late years I have followed farming.

I saw a number of United States fishing-schooners in this neighborhood the last two years; the number seen by me was from eight to ten. These vessels came here for fresh bait. I saw them jigging squids, and

know that they also purchased squids from local fishermen. One of these United States fishing-vessels had a caplin-seine hung up drying, for which he asked me £17, it being a large seine. Several of the vessels referred to above fitted out at my place with wood and water. I sold them wood, for which they paid in money.

I consider the traffic of these United States fishermen in bait injures this fishery, and must decrease the supply for local purposes. Fishermen cannot have too much bait, and more care is being observed every year to protect this fishery, to secure fishermen in a necessary supply, but the prospects under the treaty, giving Americans the privilege to fish in our waters, are not improved.

GEORGE BUTLER.

Sworn before me at Northern Gut, Conception Bay, this 30th April, 1877.

J. O. FRASER,
Commissioner of Affidavits.

N^o. 104.

STEPHEN PARSONS, aged 57 years, planter and fisherman, residing at Bay Roberts, Conception Bay, Newfoundland, maketh oath and saith:

I have followed the fisheries of Newfoundland for forty-five years, and have a practical knowledge of the same in all their branches. I saw five United States fishing-vessels in this neighborhood last year. There were three of these vessels anchored on the squid-jigging ground one day last fall. They were off and on throughout the season in this and neighboring harbors. Men and masters of these vessels told me they came for fresh bait, and had been in Bay Bulls and other southern harbors, following the bait wherever it was to be found. It was squid-bait they were after here; but they also came upon our shores for caplin and herrings for bait. One of the vessels that called here had made two trips to the United States, one with halibut and another with codfish, and this vessel was on her third trip when she called here. The captain of this vessel told me that he did better than formerly, and was much aided by the facility of procuring bait on our shores to the great saving of time, as they were seldom twenty-four hours in making the Banks and beginning fishing after leaving our shores. Newfoundland fishermen generally catch codfish within one or two miles of our shores. The Newfoundland fishery (cod) is an inshore fishery. The bait fishery, caplin, herring, and squid is an inshore fishery, and is never taken two miles from the shore, except in rare instances, when squids are caught by craft-fishing on Cape Ballard Bank and such places. I never knew or heard of a Newfoundland fishing-vessel prosecuting any voyage on any of the shores or coasts of the United States of America. The supply of bait to United States fishing-vessels has injuriously affected the supply to local fishermen. It has done so in a year when bait was considered *plentiful*; in a year of scarcity it would be ruinous. I am certainly of opinion that the operations of United States fishermen on the Banks off our coasts, well supplied with fresh bait, interferes with and tends greatly to reduce the catch of local fishermen, and that their whole traffic in connection with the fisheries and bait supply on our shores must result in permanent injury to our fisheries and in great loss to our people. United States vessels do refit in this neighborhood when required.

his
STEPHEN + PARSONS.
mark

Sworn before me at Bay Roberts, Conception Bay, Newfoundland, this 26th April, 1877.

J. O. FRASER,
Commissioner of Affidavits.

No. 105.

JOHN BARRET, aged 60 years, planter, resident at Spaniard's Bay, Newfoundland, maketh oath and saith:

I know the fisheries of this country by having followed the same for forty-five years.

I saw three United States fishing-schooners in this harbor last year, and there were a large number in other parts of the bay.

These vessels came here for fresh herrings and squids for bait. This bait they procured partly by catching for themselves and partly by purchasing from our people. The quantity taken by each vessel was forty barrels for each trip. These vessels came here from the Banks for bait, and left again for the Banks when they had procured their bait. The price paid for bait by United States fishermen was from one shilling to fifteen pence per hundred for squids.

Newfoundland fishermen generally catch codfish within two miles of the shore. The Newfoundland fishery is an inshore fishery. The caplin, herring, and squid, caught for bait, are all inshore fisheries, taken generally within stone's throw of the shore.

I never heard of a Newfoundland vessel engaging in any fishing voyage on any of the shores or coasts of the United States of America. United States fishermen do sell small codfish, oil, and fishery produce in this neighborhood, as I believe they do in most places along our shores where they call. I purchased fifteen cwt. codfish and thirty gallons cod-oil from them last year. For the codfish I gave ten shillings per cwt., and for the oil two shillings and sixpence per gallon.

The supply of bait to United States fishermen tends to decrease the supply to local fishermen, and I believe such has already been the result of their bait traffic in this bay.

I am of decided opinion that the presence of the large number of United States fishing-vessels on the Banks well supplied with fresh bait interferes with and tends greatly to reduce the catch of local fishermen, and firmly believe that the short catch last year was attributable to the operations of United States fishermen as aforesaid. The fishery in this bay and along these shores last year and year previous was not more than half the average of former years.

There is an ice-house at Harbor Grace and Mosquito where ice is stored. Americans here last year got their ice at Mosquito.

JOHN BARRETT.

Sworn before me at Spaniard's Bay, this 27th April, 1877.

J. O. FRASER,
Commissioner of Affidavits.

ARCHIBALD HUTCHINGS, aged 56 years, fisherman, residing at Spaniard's Bay, Newfoundland, maketh oath and saith:

I followed the fisheries of this country for forty years. I was present when John Barrett made the above statement, and, excepting as relates to the age of said John Barrett and his transactions in fish and oil with

United States fishermen, I believe the said statement to be true in all particulars.

his
ARCHIBALD + HUTCHINGS.
mark.

Sworn before me at Spaniard's Bay, Newfoundland, this 27th April, 1877.

J. O. FRASER,
Commissioner of Affidavits.

No. 106.

ALFRED HOPKINS, aged 52 years, planter, residing at Heart's Content, Trinity Bay, Newfoundland, maketh oath and saith :

I have become acquainted with the Newfoundland fisheries by prosecuting the same in their various branches for upwards of thirty-five years. I have seen United States fishing-schooners in this neighborhood ; there were four or five in this harbor last year at one time, and as many as twelve in this harbor throughout the summer.

These vessels came here for fresh bait, which they purchased in part, and caught in part themselves. Squids was the bait they were in quest of. These vessels came in from the Banks off our coast for bait, which they procured as aforesaid.

Newfoundland fishermen generally catch codfish within two miles of the shore ; the Newfoundland cod fishery is an inshore fishery. The caplin, herring, and squid fisheries for bait are all inshore fisheries, and are prosecuted close to the shore.

I never heard of a Newfoundland vessel having prosecuted any fishery on any of the coasts or shores of the United States of America.

The supply of bait to United States fishermen, although only commenced, has decreased the supply for local fishermen, and when the former become better acquainted with our harbors and the facilities for procuring the bait they require, it cannot be doubted but that great injury will result to the interests of local fishermen in decreasing their supply of bait. The bait-fisheries above others should be protected by all possible means. The operations of United States fishermen in supplying themselves with bait on our shores and in our harbors tends to injure this fishery much more than as prosecuted by Newfoundland fishermen, who only require a comparatively small supply, and this is taken each day in limited quantities, or, when taken for a catch off shore, is still in moderate quantity compared with the supply required by United States fishermen, and the procuring of the lesser quantity is not attended by the noise and bustle attending the larger supply taken by United States fishing-craft. I do not think the caplin, the herring, or the squid fisheries would or could hold out many years if subjected to the operations of any considerable number of United States fishermen, judging from what I have seen of them and their traffic for bait last year.

There is no doubt on my mind as to certain effects resulting from the fishing operations of United States fishermen on the Banks off our coasts well supplied with fresh bait, and that one effect of their fishing operations as aforesaid has been and must continue to be the attraction of codfish to the Banks and to the bait there supplied, preventing fish passing in toward our shores, as would otherwise be the case. The shore fishery along our coasts is injuriously affected by United States fishermen on the Banks, and in my opinion the short catch last year along our south and west coasts was greatly owing to the presence of the large

number of United States fishermen on the Banks off our coasts well supplied with fresh bait. The average catch of codfish per man in this neighborhood the last two years has not been more than one-half what the average has been in previous years.

There is an ice-house in this harbor where one hundred and fifty tons of ice is secured for sale to United States fishermen this year, a large number of their vessels being expected at this harbor this year for bait and ice.

his
ALFRED + HOPKINS.
mark.

Sworn before me at Heart's Content, Newfoundland, this 28th April, 1877.

J. O. FRASER,
Commissioner of Affidavits.

CHARLES RENDELL, aged 44 years, fisherman, residing at Heart's Content, in Trinity Bay, Newfoundland, maketh oath and saith :

I was present when Alfred Hopkins made the statement before J. O. Fraser, commissioner of affidavits, on this day, and which statement is marked B. I believe the said statement to be true in every particular, and judge it to be true and reasonable from an experience of thirty years, during which time I prosecuted the fisheries of this country almost continuously.

CHARLES RENDELL.

Sworn before me, at Heart's Content, Trinity Bay, Newfoundland, this 28th April, 1877.

J. O. FRASER,
Commissioner of Affidavits.

No. 107.

THOMAS L. NEWHOOK, planter, residing at New Harbor, Newfoundland, maketh oath and saith :

I am forty-four years of age. My knowledge of the fisheries of this country is derived from practical connection with the same for thirty years. I saw four United States fishing-vessels in this harbor last year; there were a number of them also in other near harbors that I did not see, but believe they were—as reported—in other harbors looking for fresh bait. I don't recollect the names of these vessels, but know they hailed from Gloucester, U. S. A. These vessels came here for fresh bait, which they purchased from our people, except what they jigged themselves. Each vessel took from thirty-five to forty barrels squids for a trip to the Banks, and the price paid for said bait was from one shilling to eighteen pence per 100.

Newfoundland fishermen catch codfish generally within a mile of the shore. The Newfoundland cod fishery is an inshore fishery. The bait fishery—caplin, squids, and herrings—is an inshore fishery. I never heard of a Newfoundland vessel fishing on any of the coasts or shores of the United States of America.

The supply of fresh bait to United States fishermen cannot fail to reduce the supply for local purposes.

The large quantity of fresh bait used on the Banks off our coasts by United States fishermen certainly tends to attract codfish and prevent

their passing in towards our shores. Last year's catch of codfish along these shores was not nearly an average catch.

THOMAS L. NEWHOOK.

Sworn before me at New Harbor, Trinity Bay, Newfoundland, this 27th April, 1877.

J. O. FRASER,
Commissioner of Affidavits.

MOSES PARSONS, aged 42 years, school teacher at New Harbor, Trinity Bay, Newfoundland, maketh oath and saith :

I followed the Newfoundland fisheries for ten years. I was present when Thomas Newhook made the above statement, which I believe to be true in every particular.

MOSES PARSONS.

Sworn before me at New Harbor, Trinity Bay, 27th April, 1877.

J. O. FRASER,
Commissioner of Affidavits.

No. 108.

EDWARD MORSE, aged 52 years, planter and fisherman, residing at Dildo, in Trinity Bay, Newfoundland, maketh oath and saith :

I saw nine or ten United States fishing-schooners in this harbor last year; they came in from the Banks for fresh bait and ice. Captain Newhook was master of one of these schooners; they all hailed from Gloucester, United States of America; their tonnage ran from sixty to seventy-five tons. I boarded two of them to see how they were fitted out. One of these schooners was at Renteen, in this bay, for caplin; the others seen by me came for squids, which they jigged in part, and in part purchased from local fishermen. The price given for squids, for what they purchased, was from one shilling to two shillings per hundred. They thought to haul squids with seines, but our people would not allow that, because such a plan would destroy the fishery for local fishermen. Seining would inclose all the squids in the harbor, as both on entering and leaving the harbor squids strike into the North or the South Cove, where one seine would inclose the whole school, and then local fishermen who only need from fifty to one hundred squids each per day could not be supplied. Should United States fishermen begin seining squids, as they wished to do last year, and as they have threatened to do, it will destroy the squid-bait fishery, as far as local fishermen are concerned.

My sons sold about one hundred squids to the United States fishermen referred to. Newfoundland fishermen catch codfish generally within two miles of the shore. The codfishery is an inshore fishery. The bait fishery—including squids, herrings, and caplin—is an inshore fishery. The supply of bait to United States fishermen decreases the supply for our local fishermen.

I am of very strong opinion that the presence of the large number of United States vessels, fishing on the Banks with fresh bait, and constantly supplied with such bait, must injuriously affect our shore fishery, and to this cause I attribute the short catch last year along our south and west coasts. The catch hereabouts last year was not over half a fair average of years previous to 1874.

American captains told me that it was a great advantage to them to

call in to our harbors and get bait; they wanted to engage with me to build an ice-house, promising that a large number would buy bait and ice from me. They told me they bought their ice for half a dollar per ton, and I thought that would not leave me much profit and so did not trouble with it. There is an ice-house at Heart's Content where a large quantity of ice has been preserved this winter for sale to United States vessels, who have engaged to buy the same, and a large number are expected there this year for bait and ice. Some of these schooners had spirits on board, which they sold to our people without paying duty.

EDWARD + MORSE.
his
mark.

Sworn before me at Dildo, Trinity Bay, this 27th April, 1877.

J. O. FRASER,
Commissioner of Affidavits.

ALBERT GEORGE, 33 years, planter and fisherman, residing at Dildo, Trinity Bay, Newfoundland, maketh oath and saith:

I have been practically acquainted with the fisheries of this country for fourteen years. I was present when Edward Morse made the above statement, which, excepting as relates to the age of said Edward Morse and his conversations and transactions with captains of United States fishing-vessels, I know to be true in every particular according to my belief.

ALBERT GEORGE.

Sworn before me at Dildo, Trinity Bay, Newfoundland, this 27th April, 1877.

J. O. FRASER,
Commissioner of Affidavits.

No. 109.

In the matter of the Fisheries Commission at Halifax under the Treaty of Washington.

I, ALEXANDER MCKAY, of North Sydney, in the county of Cape Breton, in the Province of Nova Scotia, formerly of Cape North, in the county of Victoria, in the said province, make oath and say as follows:

1. I was engaged at Cape North, in said county, from eighteen hundred and forty-six till eighteen hundred and sixty-four, in the buying and selling of fish, and was and still am well acquainted with many Canadian and American fishermen, also with the kinds and habits of fish taken in British waters.

2. During the period in which I was engaged in the fish business, I had excellent means of knowing the amount of fish taken by individual vessels, and say that if the fishing is fair, mackerelmen average six hundred barrels on a trip, and American fishermen generally made three such trips each year. Codfishmen made two trips, and fish from April to the last of October, along from Scaterie to the Magdalene Islands, and take on an average about five hundred quintals; some get as many as a thousand quintals.

3. From letters which I have in my possession, and statements which I have from people at Cape North and around Aspy Bay, the cod-fishing has not been so good for twenty years as this season up to this date. At present mackerel are taken in large quantities at Ingouish.

4. Within my knowledge and experience the mackerel-fishing has always fluctuated, being good for a number of years and poor again for some time.

5. During the eighteen years in which I was engaged in the fishing business, caplin only set in three years and fish always came with them and always do; this year caplin have set in in abundance, as also squid, and the mackerel are quite abundant.

6. To my knowledge, during the time engaged in the fish trade, American fishermen always trawled deeper than Canadian fishermen, thus catching the larger fish, which are the mother fish, and thus destroy millions of spawn. When the Americans came and trawled outside, I always found the fish less plentiful afterwards; this I attributed to their destruction of spawn, and the Americans themselves tell me they do so to the present day.

7. The American fishermen are always in the habit of throwing overboard the offals of the fish, and the sound bone which is thrown overboard destroys great numbers of large fish; this our fishermen never practice. The offal frightens away the fish and destroys the fishing grounds for some time.

8. Before and up to 1854 the American fishermen always fished inshore for mackerel because the mackerel come inshore to feed, and inshore is the best place to catch them. The mackerel are on their way south, and when on our coast from August till the last of November are at their best, and the Americans have always taken them inshore, treaty or no treaty. They stopped fishing when a cutter hove in sight and returned when she disappeared.

9. The inshore fisheries are of much greater value than the outside fishery for mackerel, and scarcely any mackerel are taken outside.

10. From the month of August till November, which is the best time for mackerel fishing, the American fishermen every year, until they had the right of fishing inshore, practiced throwing bait overboard to draw the fish outshore, and this is a very effective plan for drawing out the fish.

11. During the years in which I was engaged in the fish business, no American fishermen took fish with seines. They now use purse seines for taking mackerel in deep water, which destroys the schools of mackerel and frightens them away.

12. The Americans take within three miles of the shore in our bays, harbors, creeks, and rivers, herring, mackerel, squid, and caplin for bait; this they do in every bay and harbor on the coast.

13. The herring fishery is inshore and they catch them for bait all around our coast.

14. I know that Canadian mackerel are better than American, having gone into the American market with our mackerel, and I found that I could get double the price, and while carrying on the fish business at Cape North I lived for some time in Boston and sold our mackerel in the American market, and have compared mackerel taken in American waters with ours, and always found ours much superior, being worth more than twice that of the American.

15. Mackerel come inshore to feed on shrimps, which is an inshore fish, and for a kind of grub found inshore, of which they are fond and can be found in the mackerel after they have come inshore. The principal breeding place of the mackerel is at the Magdalen Islands.

16. Fresh squid and fresh mackerel being the best bait for codfish, if the Americans were deprived of the privilege of getting this bait, that fishery would be valueless to them, nor could they profitably carry on

the cod and other deep-sea fisheries without this privilege of getting bait, and ice in which to pack it.

17. The ice they bring from home is melted by the time they arrive here, and without ice they could not preserve their bait. Their outfits they are furnished with before they leave home.

18. None of our fishermen fish in American waters because our own grounds are so much better, and this fact I have had corroborated by American fishermen. And if the Americans were excluded from our grounds fish would be more plenty and more regular on the inshore grounds.

19. American fishermen smuggle goods, and I have been informed of seizures being made for this practice.

20. I have known fifty or sixty sail of American fishermen at one time fishing off Sydney Harbor, all of whom anchored in the harbor at night and ran out in the morning, catching mackerel, within the last five years; and it is my opinion that if the American fishermen were excluded from our fishing grounds that our own people would go into the fishing much more, and more profitably.

21. None of the codfish vessels, to my knowledge, go through the Strait of Canso. They come around the southern and eastern coasts of Cape Breton, and many mackerelmen do the same. Mackerelmen fish around by Scaterie, and it is therefore shorter for them to come round by the southern and eastern sides of the island of Cape Breton.

A. MCKAY.

Sworn to at North Sydney, in the County of Cape Breton, this 19th day of July, A. D. 1877, before me.

JOHN FORBES,

Justice Peace in and for the County of Cape Breton.

No. 110.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, JAMES MCLEOD, formerly of Gabarus, in the county of Cape Breton, province of Nova Scotia, for the last five years now past, of North Sydney, in the said county and province, master mariner, make oath and say as follows:

1. I have been master mariner for about six years, and am well acquainted with the fisheries on the coasts of Cape Breton, Prince Edward Island, the Magdalen Islands, the eastern coast of New Brunswick, Newfoundland, and Labrador.

2. I was personally engaged in the fisheries for about eight years. I fished on the shores of Cape Breton, particularly on the eastern side; on the eastern more than on the other sides. Around the Magdalen Islands, Prince Edward Island, and on the eastern coast of New Brunswick, I have also been engaged in Bank fishing.

3. During this time I fished in company with American fishing-vessels. Around the Magdalen Islands they were almost all American fishermen—also on the eastern coast of New Brunswick—and I have seen great numbers of American fishing-vessels in these two last-mentioned localities. Last summer I fished from Cape North to Scaterie, during the cod season, and saw at that season great numbers of American fishermen there, engaged in fishing. Within the last two years I have seen many American fishermen, from Cape North to Scaterie, en-

gaged in mackerel fishing, and have seen at one time between twenty and thirty American fishermen so engaged within sight, and think that there would be in that vicinity, at one time, about one hundred.

4. The presence of so many American fishermen lessens the catch of fish.

5. When fishing around the Magdalen Islands, Prince Edward Island, and eastern coast of New Brunswick, about eight or nine years ago, the Americans took mackerel with hook and line; since that time American fishermen have used purse-seines, and last summer an American skipper told me that he had caught mackerel in this way during the said summer. These purse-seines are bad for the fisheries. They kill a great many of the fish, mashing them up, and when the seine is tripped these mashed fish sink and frighten away the live fish, and injure the fishing-grounds.

7. I have never seen nor heard of Canadian fishermen using purse-seines.

8. I think that more than half the mackerel are taken inshore within the three-mile limit, and the inshore fishing is far the most valuable, because the mackerel strike in toward the shore, and the American vessels follow them in to the shore; and I do not believe it would pay the Americans to come here to fish, unless they followed the fish inshore within three miles. And when in the Island of Cape Breton, during the mackerel season, I have seen many of them fishing within three miles of the shore.

9. It would be impossible for the Americans to successfully carry on the cod and halibut fishing without getting bait from us and ice in which to pack it, and the only place in which they can get this bait is in our bays, creeks, and harbors; also up our rivers, and always within three miles of the shore.

10. All the American fishermen engaged in the cod and halibut fishery come round the southern and eastern coasts of Cape Breton, and many American mackerel fishermen do the same.

11. American fishermen throw overboard fish under a certain number of inches; and in halibut fishing throw away all the codfish, of which they take large numbers, except the very large ones, thus wasting fish and injuring the grounds. This practice our Canadian fishermen never participate in.

12. It is my opinion, it would be much better for our fishermen if the Americans were kept off the inshore grounds and away from the fisheries, as the fish would be much more plenty for our men.

13. I do not think that the American fishermen are a benefit in any way to our fishermen, but a great injury, lessening the catch and injuring the fishing-grounds, by leaving dead fish and "gurry" on the grounds.

14. I have seen, this present summer, American fishermen within a mile of the shore fishing, and engaged in the taking of cod, halibut, hake, and pollock, which must be of great value to them.

15. The Americans come here in the early spring; fish along from Cape North in Cape Breton, north of Bird Rock, St. Paul's Island, and Magdalenes, and cut off many fish from going up the St. Lawrence to our fishermen.

JAMES MCLEOD.

Sworn to at North Sydney, in the county of Cape Breton, this 19th day of July, A. D. 1877, before me,

JOHN VOGHT,

J. P., for and in the County of Cape Breton.

No. 111.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, WILLIAM NEARING, of Main-a-Dieu, in the county of Cape Breton, fisherman, make oath and say as follows:

1. I have been upwards of forty years engaged in the inshore fisheries, and have taken mackerel, herring, codfish, and halibut, all the kinds of fish found around here. I fished in a whaleboat and schooner around Cow Bay, Scaterie, Miri Bay, Main-a-Dieu, and Lorraines, and have also gone out fishing from this port with two American fishing schooners.

2. During the number of years mentioned I have seen many American vessels engaged in fishing in the places in which I fished, and during the past five or six years, up to this date, I have seen them fishing in and off shore in this vicinity. I have seen over a hundred American fishing schooners at one time inside and outside of Scaterie Island at one time. All the codfish and halibut fishermen come round the southern and eastern coasts of Cape Breton, and do not run through the Strait of Canso. During the past five or six years I have seen, on an average, upwards of one hundred American fishing-vessels each year around in this vicinity.

3. The Americans take about here mackerel, codfish, and halibut. About eight years ago I was in an American halibut vessel, and in twenty-four hours we took one hundred and sixty halibut north-north-east, and near Scaterie light, inside of the three-mile limit. These halibut would weigh from forty to three hundred pounds each. Since the Americans resorted here halibut have become very scarce; previous to that time we could catch as many as we wanted.

4. The Americans trawled here last spring twelve months for halibut within the three-mile limit. They trawl off on the banks, and their plan of trawling injures the inshore fishery; they trawl on the bottom and take the mother fish; they throw over the gurry, which is very injurious to the fishery; I have myself often caught codfish with sound bones in them.

5. The Americans have fished all around here inshore for mackerel, and the large quantities taken by them injured the inshore fisheries.

6. The Americans fish mackerel for bait, and buy mackerel and herring for the same purpose whenever they can get it.

7. In my opinion it would be much better for us if the Americans were kept away from our shores.

his
WILLIAM + NEARING.
mark.

Sworn to before me at Main-a-Dieu, Cape Breton, the 27th day of July, 1877.

GEO. RIGBY, J. P.

No. 112.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, THOMAS LAHEY, of Main-a-Dieu, in the county of Cape Breton, fisherman, make oath and say as follows:

1. I have been engaged in the inshore fisheries for the last fifty years,

and have taken mackerel, herring, codfish, halibut, and all the kinds of fish found in this vicinity. I fished in a whale-boat around Cow Bay, Scaterie, Miri Bay, Main-a-Dieu, and Lorraine, and have taken on an average about \$600 worth of fish for the last fifty years each year.

2. During the before-mentioned period I have seen many American vessels engaged in fishing in the places aforesaid. I have seen in one day from fifty to sixty of these American vessels. These American vessels came round the southern coast of Cape Breton, and did not run through the Strait of Canso. During the past five or six years I have seen on an average, during the fishing season, over a hundred American fishing-vessels in and near the waters where I fished, and I have often found it difficult to keep out of their way. Those American vessels take all kinds of fish—mackerel, codfish, and halibut. On board these vessels there are from sixteen down to ten men on each.

3. The Americans take fish around where I fish—mackerel by jigging, and codfish with trawls. The Americans take all the large fish by trawling, and throw away any small fish taken, which poisons the rest of the fish in the water.

4. The Americans, in my experience, always come in close for mackerel, and set their trawls inside of Scaterie Island for halibut and codfish.

5. The Americans injure the inshore fishery, upon which I and hundreds more around here depend. The Americans about five or six years ago used to throw overboard bait and draw off the mackerel. This they made a general practice of, and I have often, along with other boats, been injured in this way.

6. I have seen Americans take large quantities of bait inshore within three miles of the shore. This bait they took with hook and line between Flint Island and Scaterie, also haddock for halibut bait.

7. The mackerel, codfish, and halibut have, in my experience, decreased somewhat. This is owing to the American fishermen and their plans of taking fish.

his
THOMAS + LAHEY.
mark.

Sworn to before me at Main-a-Dieu, in the county of Cape Breton, the 27th day of July, 1877.

GEO. RIGBY, *J. P.*

No. 113.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, DANIEL GOODWIN, of Cape Canso, in the county of Guysborough, fisherman, make oath and say as follows:

1. I have been engaged in the fishery business for twenty-one years. Ten of these I was with the Americans cod-fishing. About eight hundred American sail fish for cod each season. We used to fish on Grand Bank, Western Bank, and La Have Bank. One year we fished off Cape North, Island of Cape Breton. The average tonnage of each vessel would be 65 tons at least, and the crews of each from ten to twelve men. At first we used to fish with salt bait and what we could get on the Banks. During the last five or six years we got our bait in the British provinces. By using the fresh bait we could catch fish much better. In fact, little or no fishing can be done with salt bait. It is no use to

use salt bait when fresh bait is being used. If I could not get fresh bait I would not attempt to fish on the Banks with salt bait. If the Americans had to go home after their bait, it would spoil before they reached the fishing grounds. Besides this, it would be a great loss of time to them and prevent them from catching the fish in such quantities as they now can. By having the privileges granted by the Treaty of Washington, they can carry on the fishing; without them they cannot prosecute them and make them pay.

2. Each vessel makes from two to three trips each season, and catch each on an average one hundred thousand pounds of green fish. This would make seven hundred quintals of dry fish. I mean they average that much each trip. This I consider a fair statement.

3. All fish under twenty-one inches when the head is cut off is thrown away by the Americans. This I consider very destructive to the fisheries. Those small fish are similar to those caught inshore by Canadian fishermen.

4. Before I was fishing with the Americans I was engaged in the mackerel-fishing. The Americans used to fish inshore with the Canadian fishermen at that time. I have seen as many as five hundred sail engaged in the mackerel fishery during one season. They fished everywhere like the Canadian fishermen. This was during the Reciprocity Treaty.

5. The Americans buy ice and bait because it pays them best. They save a third in quantity of the ice used. Each vessel would average twenty-five tons per season.

6. I never heard or saw any Canadian vessel fishing in American waters. The right to fish in American waters is worth nothing.

DANIEL GOODWIN.

Sworn to at Canso, in the county of Guysborough, this 25th day of July, A. D. 1877, before me.

JAMES A. TORY,

Justice of Peace for the County of Guysborough.

No. 114.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, WILLIAM KELLY, of Lingan, in the county of Cape Breton, fisherman, make oath and say as follows:

1. I have been engaged in fishing for more than fifty years, mostly in the inshore fishery for fourteen of those years. I owned a fishing-vessel and fished all along the coast from Cape North to Scaterie. In this vessel there were five hands besides myself.

2. In this vessel I have taken all kinds of fish—mackerel, codfish, halibut, herring, and dogfish.

3. The mackerel were taken all inshore by me, and during the last twenty years I have seen as many as from twenty to thirty American fishing-vessels engaged in fishing mackerel at one time within three miles of the coast. There were many vessels around which I hadn't sight of.

4. About nine years ago I used to take large quantities of codfish and halibut. In one week I have taken from thirty to forty quintals of codfish and two hundred halibut. The halibut measured from three to seven and a half feet in length. Herring I always took inshore, and

never knew them to be taken beyond three miles from the shore. During the past nine years I have not taken so many fish. The reason for the decrease I think is the throwing over of gurry and the large number of vessels engaged in fishing with trawls.

5. The mackerel in my experience have been some years plenty and some scarce, and this fall may be very plenty.

6. In my experience the Americans take mackerel inshore, and I think if they were not allowed to take them inshore it would not be worth their while to come here to fish mackerel.

his
WILLIAM + KELLY.
mark.

Sworn to at Lingan, in the county of Cape Breton, this 23d day of July, A. D. 1877, before me.

WALTER YOUNG, J. P.

No. 115.

In the matter of the Fisheries Commission at Halifax, under the treaty of Washington.

I, ISAAC ARCHIBALD, of Cow Bay, in the county of Cape Breton, merchant, make oath and say as follows :

1. I have been engaged in the buying and selling of fish and of fishermen's supplies during the past twelve years. I have bought and sold mackerel, codfish, and herring, and am well acquainted with the fishing business as carried on here.

2. American fishing-vessels have resorted to this harbor for bait and ice, and have to some extent purchased provisions. The bait and ice, they stated, was indispensable to their voyage, for without it they could catch no fish. They also purchased herring for bait from our inshore fishermen in order to save time, as it was more convenient to do so than to remain and catch it, time being thus saved, and they have also purchased mackerel for bait.

3. Some years during the past twelve and down as late as eighteen hundred and seventy-three and four, as many as ten American fishing-vessels have been supplied each season with ice; each vessel took from five to ten tons.

4. Our fishermen have and still complain to me that the Americans trawl so deep that they catch the mother fish which are full of spawn, and clean their fish on the fishing ground and thus injure the ground.

5. The Americans before and during the Reciprocity Treaty of eighteen hundred and fifty-four, always fished inshore unless when a cutter was in sight. When the cutter disappeared they returned to fish. This plan they always adopted within my recollection.

6. I would say that here at least three-fourths of all kinds of fish are taken inshore—all our mackerel, herring, large quantities of codfish and halibut. The halibut are mostly taken in the spring of the year. Considerable quantities of haddock are also taken here in the spring of the year, and are all taken inshore.

7. The Americans in this bay have often practiced throwing bait overboard, and thus enticing the mackerel off shore. This they do because the mackerel are found inshore, and this practice has been followed by them except when they had the right of fishing inshore.

8. American fishermen catch bait within three miles of the shore in this bay, mostly herring and mackerel. The herring they take in nets,

the mackerel by both nets and hook and line. This they do all round the coast here with which I am acquainted.

9. Since eighteen hundred and seventy-one there has been a decrease in the amount of codfish taken by our inshore fishermen. The mackerel in my experience have varied, being some years good and others poor. The causes of this are, as already stated, deep trawling, throwing offal overboard, and over-fishing.

10. All our herring are taken inshore, and in this bay there are about four hundred barrels taken yearly. The Americans catch and buy them for bait all around the coast.

11. The Canadian mackerel I know are better than those taken in American waters, because in the summer of eighteen hundred and seventy-one I went into the American markets and made it my business to make inquiries, and found American fish-dealers very eager to get our mackerel.

12. The Americans, in my opinion, would be unable to carry on the cod and halibut fishing successfully unless they were allowed to frequent our bays, harbors, and creeks for bait, and ice in which to pack it, and without it would be unable to secure a cargo.

13. The American fishermen buy but very few articles, being supplied before leaving home, and only buy articles when they run short, and their trade in this respect I consider only an accommodation to themselves.

14. As far as I know, the privilege of fishing in American waters is of no benefit to Canadians, nor have I ever heard of any benefit being derived by Canadians from this privilege.

15. I have heard of a considerable amount of smuggling being done by American vessels in kerosene oil.

16. The Americans, to my knowledge, get a large number of their fishermen from Cape Breton, who go into American vessels and thus build up the American fishing establishment at the expense of our own; and I believe that it would be much better for us if the Americans were totally excluded and our markets left to ourselves.

ISAAC ARCHIBALD.

Sworn to at Cow Bay, in the county of Cape Breton, this 24th day of July, A. D. 1877, before me.

JOSEPH McPHERSON, J. P.

No. 116.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, JOSEPH DOBSON, of South Sydney, in the county of Cape Breton, miller and millowner, make oath and say as follows:

1. Within the last three years I have supplied American fishing schooners with ice in which to pack their bait, from two and one-half to three tons each vessel, and I have supplied as many as eight during the past three years, and within the last fortnight I have thus supplied two American fishing-vessels.

2. Within the last fortnight there have been at least a dozen American fishing-vessels around here close to the shore fishing for bait—squid, perch, smelts, and all kinds of small fish suitable for bait. This bait they pack in ice to keep fresh. They are supplied with ice by other dealers besides me in this harbor. The Americans told me the bait was

plentiful and good, and that it would be impossible for them to do without ice.

3. Bait has been more plentiful in this harbor during this month than I have known it to be within the last twenty years, and I consider it of great value to the Americans to get this bait and ice, for when the Americans secure ice and bait they say they have every chance for a successful voyage, and they always tell me, no bait no fish.

JOSEPH DOBSON.

Sworn to at Sydney, in the county of Cape Breton, this 23d day of July, A. D. 1877, before me.

C. H. HARRINGTON,
Justice of the Peace.

No. 117.

In the matter of the Fisheries Commission at Halifax, under the treaty of Washington.

I, JOHN PEACH, of Cow Bay, in the county of Cape Breton, fisherman, make oath and say as follows:

1. I have been engaged in the taking of fish for twenty-eight years, all in the inshore fishery. I have caught mackerel, herring, codfish, and halibut from Cape North to Scaterie, and in and around Cow Bay, in the county aforesaid.

2. I have caught mackerel with hook and net, and always inshore. I never went beyond three miles from the shores for mackerel, because we could catch no mackerel beyond three miles.

3. About fifteen years ago I used to take large quantities of mackerel inshore with nets. I have taken myself in one morning as many as ten barrels in one haul. Since that time I have not taken so many mackerel in nets. The reason of my not taking so many mackerel now with nets is because the Americans have broken and destroyed the schools, so many of them fishing on the coast.

4. The Americans fish from three miles off shore close up to the land for mackerel, and come in among us inshore fishermen and take the fish away from us. They come in and throw their pogie bait overboard, and draw the fish away from us.

5. Last summer I have seen as many as ten at least at one time amongst us, around where we fished, and they took large quantities of mackerel. These mackerel we consider taken away from us.

6. The Americans have such large quantities of bait that they spoil our catch.

7. These American mackerel men take from five to six hundred barrels apiece, and in the fall season I have known them often to make two such trips. These American vessels have on board from twelve to fourteen men each.

8. The American cod-fishermen go into the bays and harbors and get bait and ice, and when a storm comes, they run into our bays and harbors. Without bait, and ice in which to keep it, they could catch no fish.

9. The American cod-fishermen take from ten to fifteen hundred quintals of codfish each trip. In taking codfish the Americans trawl on the bottom and injure the fishing by taking the mother fish in which there are great numbers of spawn.

10. The Americans throw overboard the offal and sound bone, which

is of great hurt to the fishing ground ; this our inshore fishermen never make a practice of.

11. In Cow Bay, last season, the amount of codfish taken, to the best of my knowledge, would amount to a thousand quintals. I have known a great many more some seasons. Some seasons it is better, some worse. The amount of herring taken last spring in this bay was about six hundred barrels. The amount of mackerel taken last summer was from three to four hundred barrels. These numbers vary, being some years much better.

12. Herring are taken all inshore, and also mackerel.

13. Off this bay I have known a boat's crew of three men to catch from fifty to sixty halibut in one day, about fifteen years ago. These halibut measured from three to seven feet each. At the present time this fishery has almost failed, and this I attribute solely to American trawlers, and I believe if the Americans were stopped from trawling we would have the halibut as plenty again.

14. If the Americans were shut off our coast from our fisheries, I believe they would in the course of time be as good as ever.

JOHN PEACH.

Sworn to at Cow Bay, in the county of Cape Breton, this 24th day of July, A. D. 1877, before me.

JOSEPH MCPHERSON,

J. P. for and in the County of Cape Breton.

118.

In the matter of the Fisheries Commission at Halifax under the Treaty of Washington.

I, JAMES FRASER, of South Bar, in the county of Cape Breton, in the Province of Nova Scotia, master mariner, make oath and say as follows:

1. I have been master mariner for twenty-eight years, and am well acquainted with the coasts of Nova Scotia, Prince Edward Island, eastern side of New Brunswick, Lower St. Lawrence, and Newfoundland, and am well acquainted with all the bays and harbors on those coasts, and was acquainted during that period with the fishing on those coasts, and saw large numbers of American fishing-vessels engaged in fishing inshore and offshore, and laying at anchor in our bays and harbors. During the last twelve years I have been engaged in the inshore fisheries, and as a trader, and have frequently supplied American fishing-vessels with ice and bait.

2. I have seen in one summer upwards of two thousand American fishing-vessels on the coasts of Nova Scotia, Prince Edward Island, the eastern coast of New Brunswick, and the coast of Newfoundland, engaged in taking the various kinds of fish found in the waters around those coasts. This number varied, being some years greater and some less. This I have seen year after year down till 1865, when I discontinued the coasting trade.

3. During the past twelve years I have supplied frequently American fishing-vessels with ice and bait.

4. During the past six years I think on an average fifty sail have been supplied with ice and bait in Sydney Harbor, and I do not think the trawl-fishing could be carried on without ice and fresh bait profitably.

5. The inshore fishery is of more value in my opinion than the out-

shore fishery, and the Americans injure the inshore fishery by drawing off the fish outshore.

6. The Americans, as I am informed, use purse seines, and I have seen those seines on board their vessels.

7. During the past ten years I have seen one hundred and sixty American vessels fish in Sydney Harbor for mackerel in one day, and large fleets of American fishing-vessels visit our harbor daily for the purpose of catching mackerel during the mackerel season year after year.

8. The mackerel come inshore to feed and are taken by our fishermen close inshore, and also by the Americans.

9. Large numbers of our population go on board American fishing-vessels and are engaged in carrying on the American fishing trade, which ought to be encouraged at home.

JAMES FRASER.

Sworn to at South Bar, in the county of Cape Breton, this 21st day of July, A. D. 1877, before me.

PATRICK MULLINS,

Justice of the Peace in and for the County of Cape Breton.

No. 119.

In the matter of the Fisheries Commission at Halifax under the Treaty of Washington.

I, JOHN FERGUSON, of Cow Bay, in the county of Cape Breton, in the Province of Nova Scotia, fisherman, make oath and say as follows :

1. I have been engaged in fishing during the past thirty-five years, most of that time out of Cow Bay. For two summers I fished out of Chatham, in the State of Massachusetts, in American vessels engaged in mackerel fishing in American waters.

2. The mackerel taken in American waters were far inferior to those taken in our waters. In fact we would not have fished in American waters at all if the Americans had not been afraid of coming into British waters to fish. This was in the year 1853.

3. In this bay I have fished for twenty summers, and have taken mackerel, herring, codfish, haddock, and halibut.

4. The mackerel are taken inshore, and the best grounds for fishing mackerel are inside the heads in this bay. In my experience, I never saw mackerel taken off shore out beyond three miles. The Americans come here summer after summer in large numbers; and last summer they came among us, commenced taking mackerel, throwing over bait, and drew the mackerel away from our boats.

5. I have seen in Cow Bay, about twelve years ago, over one hundred American vessels taking mackerel. They fished in close to the shore and up to our wharves, and it would not be of any use for the Americans to come here to fish unless they were allowed to come in close to the shore.

6. In my experience mackerel have varied, being sometimes for a number of years good and for another number of years poor. This is more or less the case with all our fish.

7. I have fished around Scatarie Island, Main-a-Dieu, and out of Mira Bay, about sixteen years ago, and I there at that time saw many American fishing vessels engaged in fishing codfish and halibut. I fished around the last-mentioned places for about five years, and none of the American vessels which I saw there went through the Strait of Canso,

and I have seen from forty to fifty American vessels pass through the "Kittle" between Scatarie and Main-a-Dieu in one day.

8. On board these American vessels there are from about twelve to fourteen men, and I have been on board one on which there was eighteen hands.

9. The American mackerelmen come around this coast and fish from about the first of August till late in the fall, and take from about six hundred to a thousand barrels to each vessel. The American cod fishermen average about one thousand quintals to each vessel and make about two trips each summer. They commence fishing at Scatarie and fish all around here, all along the shore in and out up to Cape North, and last summer I have seen as many as from eight to ten American vessels fishing at one time in sight.

10. The American plan of trawling I consider hurtful to the fishing ground, and the Americans take away a great many fish from our fishermen.

11. The inshore fishery includes every kind of fish except codfish, and many of these are taken inshore, and I consider the inshore fishery of far the greatest value.

JOHN FERGUSON.

Sworn to at Cow Bay, in the county of Cape Breton, this 25th day of July, A. D. 1877, before me.

JOSEPH MCPHERSON,
J. P. for and in the County of Cape Breton.

No. 120.

In the matter of the Fisheries Commission at Halifax under the Treaty of Washington.

I, JOHN MURPHY, of Lingan, in the county of Cape Breton, fisherman, make oath and say as follows:

1. I have been engaged twenty years in the taking of fish, part of the time inshore and part of the time outshore, and have caught mackerel, herring, codfish, and halibut.

2. The mackerel we always took inshore within three miles. During the past five or six years I have caught mackerel inshore around Lingan Harbor, and last year I have seen from ten to fifteen sail of American vessels engaged in taking mackerel. These I have seen at one time together, and many around which I did not see. These American vessels were inshore within two miles of the shore in Lingan Harbor. So many mackerelmen diminish the catch of fish for our fishermen, and are injurious to the mackerel, for they keep them flying about on the top of the water, and thus have no time to spawn. During the past five or six years I have seen as many American mackerelmen fishing here.

3. These American mackerelmen take from five to six hundred barrels apiece, and in the fall season, from September along till and in October, I have known many of them to make two such cargoes.

4. The American mackerelmen who fish around here come around the southern and eastern coasts of Cape Breton, and all the codfish and halibut fishermen come around the same way.

5. On board the American mackerelmen there are about from twelve to fourteen men on each vessel, and on board the codfish and halibut vessels there are the same number.

6. The American codfishermen come into our bays and harbors and get bait and ice without which they could not fish; then go out and trawl to the bottom. This deep trawling is very bad, as they catch the mother fish which are full of spawn. In deep trawling only the large fish bite.

7. Herring are taken all inshore; also mackerel, and great quantities of codfish and halibut.

8. The Americans heave their "gurry" overboard. This I have frequently seen them do, and I consider this bad for the fishing-grounds.

9. Around the southern and eastern coasts of Cape Breton there are as many American vessels engaged in taking codfish and halibut as in the taking of mackerel, and they take from eight to ten hundred quintals of codfish each.

10. The halibut they pack in ice which they can get in Sydney and Louisburg, and ice which they to some extent bring with them.

11. Squids and caplin have set in very plentifully this year, and the fish always follow them; and mackerel are expected to be very plenty this fall.

12. I was at St. Ann's, in the county of Victoria, a week ago, and saw many mackerel schools and herring schools, and the people all said it was a very plentiful year for mackerel.

his
JOHN + MURPHY.
mark.

Sworn to at Lingan, in the county of Cape Breton, this 24th day of July, A. D. 1877, before me.

WALTER YOUNG, J. P.

No. 121.

In the matter of the Fisheries Commission at Halifax under the Treaty of Washington.

I, ANGUS MATHESON, of South Sydney, in the county of Cape Breton, Province of Nova Scotia, fisherman, make oath and say as follows:

1. About twelve years ago I fished for two seasons in company and in American fishing-vessels. These vessels came from Gloucester, and were engaged in mackerel-fishing. I fished around the eastern coast of Cape Breton, and eastern part of Prince Edward Island, and the Magdalen Islands. Since then I have been engaged more or less in the inshore fisheries this summer, from the twenty-sixth of April till the middle of July. I hove off Low Point light-house, in the county of Cape Breton, in boats, fished codfish, haddock, halibut, and herring.

2. During the past twelve years I have seen many American fishing-vessels fishing mackerel near shore. They fished inshore sometimes close to the shore, because the mackerel come inshore, and I have fished hundreds of barrels of mackerel, and have never yet taken them more than three-quarters of a mile from the shore; and I have caught them in Sydney Harbor until the bottom of the boat touched the ground. The Americans always come inshore for the mackerel, and when they did not fish them inshore they baited them off to beyond the three miles, and most any kind of fish can be baited off in this way.

3. I have seen within the past twelve years over two hundred fishing near Low Point. Each season, from Seatarie all round the shore up to Cape North, there are hundreds of these American fishing-vessels, and they fish here from year to year, and at the present time.

4. I have never known codfish and halibut vessels to go through the Gut of Canso, and I have known of many American mackerel-fishing vessels go around the southern and eastern coasts of Cape Breton and fish along those coasts.

5. These Americans catch immense quantities of mackerel—from one hundred to a thousand barrels—and I can safely say, average from five hundred to six hundred barrels each vessel on each trip. These vessels take from two to three cargoes each year.

6. The mackerel during the past six years have been an average catch; and this year, and during the present summer, bait has struck in more plentiful than I have ever known, and fish always follow the bait. The mackerel are at present striking inshore plentifully, and I believe will be as good as ever they have been.

7. The Americans, to my knowledge, trawl much deeper than our fishermen. They catch the mother fish by thus trawling so deep, and destroy great quantities of spawn. They throw overboard the offal from the fish, which is very injurious to the fishing ground, especially the heads and maw bones. I have myself, this summer, caught codfish with the heads of fish in their maws; these heads must have been thrown from vessels offshore, because we take our fish inshore to dress, and the farmers come and take all the offal away to their farms, which they say is the very best manure they can find. These heads and sound-bones which are thrown over kill the fish.

8. During the twelve years of my experience the Americans always fished within shore, and wherever they could get fish, and the inshore fishery is of much the greatest value. The Americans diminish the quantities of fish, especially when they employ improper means for taking them. By improper means I refer to deep trawling. The quantities of offal thrown overboard sicken and destroy the fish, and thus injure the inshore catch. During this summer, I, for a short time, and for the first time tried two jigs; I only caught two codfish with them, and am sure that I destroyed more than one hundred, and whoever employs this method of taking fish must destroy vast numbers.

9. The herring is taken inshore by Nova Scotia fishermen, and the Americans buy them fresh for bait when they can get them. They also buy ice all around the coast wherever they can get it, in which to pack their bait. This privilege is of great importance to them, for without bait, and ice in which to keep it, they could catch no fish.

10. It is my opinion that unless Americans are excluded that the fishing will be much lessened. These fisheries I consider to be of untold wealth, both to the Americans and to our own people, and would be of very much more value to our Nova Scotia people if the Americans were excluded.

ANGUS MATHESON.

Sworn to at South Sydney, in the county of Cape Breton, this 23rd day of July, A. D. 1877, before me.

A. HARRY BOURINOT,

Justice of the Peace in and for the County of Cape Breton.

No. 122.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, WILLIAM H. SWEET, of Fall River, in the State of Massachusetts

United States of America, but now of Port Hood, in the county of Inverness, fisherman, make oath and say as follows :

1. I have been engaged in the fishing vessels fitted out by the Americans for the past five years, and have been engaged during that time in fishing in all parts of the gulf, on the coast of Nova Scotia, Cape Breton and P. E. Island and on the shores of the Magdalen Island.

2. A large number of American vessels have been engaged in fishing in these waters for some years past, taking chiefly mackerel and codfish. The average cargo of an American vessel is about 450 barrels of mackerel during one trip, though I have known some vessels to take a much larger number. The average cargo of codfish is from 600 to 1,000 quintals per trip. On an average these vessels make two or three trips per season.

3. The American fishermen are in the habit of throwing offal overboard while they are fishing on the coast, and this practice has been injurious to the fishing grounds, and glutted the fish in the neighborhood, and it is found necessary to move away after a while from the places where the offal has been thrown.

4. American fishing vessels are sometimes accustomed to use the purse seines in fishing for mackerel, and the effect of this I consider very injurious to the fishing grounds. I have known our fishermen to take as many as a thousand barrels of mackerel in one haul, and they cannot cure all these, and consequently have to let a good portion of them go adrift, and many of the fish are killed. This practice must do serious damage.

5. Mackerel chiefly feed and breed inshore. They have to go inshore for food, because the smaller fish on which they feed live wholly or chiefly in shoal water.

6. Very large quantities of mackerel are taken by our fishermen inshore on Canadian fishing grounds, but I cannot say what proportion of the whole catch. In September and October a large part of the mackerel fishing is done inshore.

7. The present system of trawling practiced by the American fishermen in cod-fishing is most dangerous to Canadian fishing grounds. It destroys the mother-fish, and being followed up the whole season it takes fish during the spawning season. Being anxious to get cargoes of large fish the Americans throw the small fish overboard. I believe if this trawling system is pursued much longer, it will very greatly damage the Canadian fishing grounds, if not ruin them.

8. It is a very great advantage to American fishermen to be able to procure bait and ice in Canadian ports along the coast, and to catch it near the shore. It is considered by the Americans more advantageous to buy the bait for the cod-fishery than to catch it themselves. If the American fishing vessels could not procure bait on the Canadian shores, they would almost have to abandon the cod-fishery. Bait will only last about three weeks in ice, and if the Americans could not get the ice here we could only preserve our bait by salting it, which injures it. It would be impossible for us to carry on the cod-fishery profitably if we had to return to American waters and ports to procure all our bait.

WM. H. SWEET.

Sworn to at Port Hood, in the county of Inverness, this 20th day of July, A. D. 1877, before me.

D. CAMPBELL, J. P.

No. 123.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, JAMES ARCHIBALD, of Boston, in the State of Massachusetts, United States of America, at present of Port Hood, in the county of Inverness, fisherman, make oath and say as follows :

1. I have been engaged in the fishing business for twenty years past, and during seven years past I have been fishing in American vessels, in American and Canadian waters. I have been engaged in various kinds of fishing on the coasts of Nova Scotia and Cape Breton, in the gulf, and about the Magdalen Islands, and P. E. Island. I came into this port in an American fishing vessel, and have been engaged in fishing here during the present season.

2. Since I have been fishing in these parts, I have known of a large number of American fishing vessels frequenting these coasts, chiefly engaged in taking codfish and mackerel. Each vessel carries about 450 barrels of mackerel at a cargo, and makes two or three trips during the season. The average cargo of codfish is from 600 to 1,000 quintals each vessel. The vessels average about 60 or 70 tons, and I have known some vessels to take larger cargoes.

3. I know that our fishermen are in the habit of throwing offal overboard after catching the fish, and I think this must be injurious to the fishing-ground, and the vessels have to move away from the places where they throw over the offal every little while.

4. I have known American fishing vessels to use the purse-seines in fishing mackerel quite often, and I know it must do great injury to the fishing-grounds. They make such large hauls in these seines that they cannot cure all the fish unless they have other vessels near, and so they have to send many fish adrift, and some are killed in the operation. This practice will do great harm to the grounds.

5. Very large quantities of mackerel are taken by our fishermen now inshore, but I would not like to say what proportion of the whole mackerel catch. Late in the autumn a great deal of the fishing is done inshore. According to the best of my knowledge and experience mackerel breed and feed for the most part inshore. They feed on smaller fish which are found almost entirely in shoal water.

6. The system of trawling for codfish is practiced now quite largely by American fishermen in these parts, and I believe it will be very injurious to the fishing-grounds. It destroys the mother fish, and as the fish are taken all through the season they must be caught while spawning. American fishermen for the sake of getting large cod throw the small fish overboard, which tends to damage the grounds very seriously.

7. It is considered by American fishermen a very great advantage to be able to procure bait and ice in the Canadian ports adjacent to the grounds, either by buying it or catching it near the shore. It is more profitable to our fishermen to buy it than to catch it, as a rule. If the Americans could not procure bait on the Canadian shores I do not see how they could carry on the cod-fishery. Bait only lasts about three weeks in ice, and if we could not get ice here we could only preserve our bait by salting, which is always considered an injury to bait. We could not carry on codfishing with any profit on these shores if we had to return to American waters and ports to get bait all the season.

his
JAMES + ARCHIBALD.
mark.

Sworn to at Port Hood, in the county of Inverness, this 20th day of July, A. D. 1877 (being first read and explained).

D. CAMPBELL, *J. P.*

No. 124.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, RICHARD THOMAS, of Booth Bay, in the State of Maine, United States of America, at present of Port Hood, in the county of Inverness, fisherman, make oath and say as follows :

1. I have been engaged on board of American fishing-vessels for the past twenty-four years, and have been engaged in fishing on all parts of the coasts of Nova Scotia, Cape Breton, Prince Edward Island, and the Magdalen Islands; and am familiar with the whole fishing business in these parts. I entered this port only a few days ago in an American fishing-vessel, and have been fishing in these waters during the present season.

2. I have read over the affidavit of James Archibald, of Boston, made herein on this date, the 20th of July, A. D. 1877, and I say that the statements contained in said affidavit in reference to the fishing business on this coast are, to the best of my knowledge, information, and belief, correct and true in every particular.

RICHARD THOMAS.

Sworn at Port Hood, in the county of Inverness, this 20th day of July, A. D. 1877, before me.

D. CAMPBELL, *J. P.*

No. 125.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, JOHN R. HAMILTON, of New Carlisle, county of Bonaventure, Province of Quebec, make oath and say as follows :

1. Have been engaged in the fisheries for the last seventeen years, having had establishments on the north shore of the Gulf of St. Lawrence, at Seven Islands, on the Bull Island, River Moisie, St. John's River, and Long Point near Mingan.

2. I consider that the fishery by the Americans in Canadian waters has been very extensive between 1854 and 1866; I have seen as many as 100 schooners in Paspebiac Harbor, and as many at Seven Islands. At least 200 schooners have visited our shores for mackerel during part of the Reciprocity Treaty that I have mentioned, yearly. The average tonnage of these vessels is 80 tons, each vessel having from 12 to 15 men for a crew.

3. The principal places where I have seen them fish for mackerel were Bay Chaleurs and Seven Islands on the north shore.

4. During the Reciprocity Treaty the American schooners generally made good voyages and sometimes two, averaging 400 barrels each voyage.

5. I have seen American schooners frequently fishing for cod and halibut, at Seven Islands, inshore.

6. The cod-fishery fluctuates, but the fishery now is equal to, if no

superior to, that of fifteen years ago. The herring about the same. Mackerel are not as plenty here as they were twenty years ago, but it might be accidental.

7. The Americans take mackerel with hand-lines, purse and hauling-seines.

8. The Americans mostly fish inshore at Seven Islands, and half of the time at Bay Chaleurs.

9. I have seen American vessels leave Seven Islands loaded with mackerel caught inshore. I have also seen them hauling the seines ashore, I should say with over a hundred barrels of mackerel.

10. The inshore fishery is of greater value than the outside. All the herring, caplin, launce, two-thirds of the codfish, and most of the halibut are taken inshore.

11. I have seen the Americans throw bait and entice the mackerel to their vessels, and the boats belonging to our coast could not take many.

12. A good part of the mackerel are taken by the Americans with seines. Most of those that I have seen seining were fishing inshore.

13. The bait the Americans take on these shores for the cod and halibut fisheries is taken inshore. I have seen them several times taking bait with nets and seines.

14. I think the codfishing has not changed since 1871.

15. The Americans take all the herring inshore; they take them for bait.

16. Mackerel feed along the shores of the Bay Chaleur, Seven Islands, Moisie and Mingan, and in fact all the places that I have visited. In the Gulf of St. Lawrence and on the North Shore and Bay Chaleur they feed inshore on small fish, &c.

17. I consider it a great advantage to the Americans to be able to land, dry their nets, and cure their fish.

18. I consider it a great advantage to Americans to be able to transship their cargoes because it enables them to continue fishing, instead of going to the United States or elsewhere with their cargoes.

19. It is an advantage to the American fishermen to be able to procure bait in our waters, either to buy or catch it. If they buy it, it is because they find it more profitable than to catch it themselves in order to save time.

20. It would be impossible for the Americans to carry on the cod and halibut fishery without being able to procure bait in our inshore, that is to say profitably.

21. It is of no advantage to us to be able to fish in American waters.

22. The privilege of transshipping cargoes is worth a load; and the privilege of getting bait in our inshores for cod and halibut is equal to their fishery.

23. I believe that the privilege of fishing by the Americans in our waters injures the fishery very materially.

JOHN R. HAMILTON.

Sworn, to the best of his knowledge, information, and belief, at New Carlisle, county of Bonaventure, Province of Quebec, Dominion of Canada, this 24th day of July, A. D. 1877, before me.

N. LAVOIE,

Justice of the Peace, Province of Quebec.

No. 126.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington:

I, BAPTISTE COUTURE, of Grand River, county of Gaspé, Province of Quebec, fisherman, make oath and say as follows:

1. I have been engaged in all the fisheries on this coast for forty years.

2. The fishing by the American fishermen was very extensive on this shore between Newport and Cape Despair, a distance of 27 miles, from 1854 to 1866. On this shore during the Reciprocity Treaty, from 1854 to 1866, fully sixty schooners have been engaged in the mackerel fishery yearly, each of these vessels being about 70 tons, having a crew of fifteen men.

3. On an average these schooners have made good voyages of 400 barrels each.

4. The cod-fishery seems to be on the increase, and considerably. Herring are about the same, and mackerel seem to be in as great abundance on our shores here as in former years. Our Canadian fishermen take them as plentifully now as in the best years.

5. The Americans take mackerel with hand lines and seines.

6. During the Reciprocity Treaty, between 1854 and 1866, the American fishermen that have resorted to these shores for mackerel have caught the most of them inshore, and sometimes very close to the shore. I have seen them fish with hand lines only, and they have got their load in a few days. Every year I have been alongside of them and have seen them fishing.

7. Our inshore fisheries are of much greater value than the outside. Herring, caplin, lance are caught inshore, and two-thirds of the mackerel also.

8. It is the common practice of the Americans to come in among the boats and, by throwing bait, entice the mackerel away with them. They have done the same to me many times. And if a school of mackerel were to come into any of our coves, and the Americans to come in after them, they would catch them all before we could get one.

9. I have seen the Americans several times come into our inshores and catch caplin with seines, and herring with nets, for bait.

10. Since 1871 all the fisheries—that is to say, mackerel, herring, and codfish—have increased, and there is as much bait as ever; and I am sure this increase is due to the withdrawing of American fishermen from our waters.

11. Mackerel feed inshore; their food is lance and other small fish which live inshore.

12. It is a great advantage to the Americans to be allowed to transship their cargoes in our inshores; it enables them to keep on the fishing-grounds and to double their fares.

13. It is a great advantage to the Americans to be able to catch bait in our inshores, or to buy it. If they buy it, it is because they find it more profitable.

14. The Americans could not carry on the cod and halibut fishery profitably if they could not procure bait in our inshores.

15. It is of no advantage to Canadians to be able to fish in American waters, and I never knew of any vessel from here going there to do so.

16. The privilege of transshipping cargoes enjoyed by the Americans

is worth a load, and the privilege of getting bait in our inshores for cod and halibut is worth these fisheries.

17. The privilege enjoyed by the Americans to fish in our waters injures our Canadian fishermen a great deal. Their vessels and gear are so much better we cannot compete with them at all, and our fishing-grounds cannot stand the heavy drafts. Our past experience is there to prove the fact.

BAPTISTE COUTURE.

Sworn to the best of his knowledge, information, and belief, at Grand River, county of Gaspé, Province of Quebec, Dominion of Canada, this 25th day of July, A. D. 1877, before me.

N. LAVOIE,

Justice of Peace, Province of Quebec.

No. 127.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, EDWARD G. HALL, of New Carlisle, county of Bonaventure, Province of Quebec, farmer and fisherman, make oath and say as follows:

1. Have been engaged in the fisheries off and on for about 30 years. Have fished with the Americans.

2. Between 1854 and 1866 the mackerel-fishing by the Americans was very extensive. The average number of vessels visiting these shores have been about 150 yearly. The average tonnage of these vessels being about 70 tons, having from 12 to 15 men for a crew. I have seen vessels fishing in Bay Chaleur for mackerel, and I have fished myself with them, and inshore for a season, between 1854 and 1866.

3. The American vessels that have visited our shores have always done well during the period mentioned. Each voyage amounting yearly to 350 barrels each. And the captain of the American vessel in which I was engaged told me that several of these schooners make two or three trips yearly.

4. In the Bay Chaleur the cod-fishery is better now than formerly. Herring about the same. Mackerel as plenty as ever on the south shore of the Bay Chaleur. I have seen large schools not later than last Saturday off my place, and very close to the shore.

5. The Americans catch mackerel with hand-lines and seines. I have seen the seines in their boats, and I saw about 40 barrels of mackerel that they had taken with the seines in one hour.

6. In Bay Chaleur American fishermen fish inshore with hand-lines two-thirds of the time, and all the hauling of the seines are inshore.

7. The inshore fishery on this shore is of greater value than the outside.

8. All the herring, caplin, and lance are taken inshore, and all the codfish also. Two-thirds of the mackerel are also taken inshore.

9. The use of the seines by the Americans is injurious to the fishery, because it takes every kind of fish, a part of which is lost, because they don't want it, and they throw them away.

10. The Americans take bait in our inshores.

11. Since 1871 the fishery has not changed in the Bay Chaleur, except for mackerel, but there is a great increase this year.

12. The Americans catch herring in our inshores for bait only.

13. I have seen in the Bay Chaleur mackerel not longer than 3 or 4 inches, and I take it from that that they breed here.

14. Mackerel feed on lance and shrimps.

15. I consider it of great advantage to Americans to be able to land, dry their nets, and cure their fish.

16. It is a great advantage to Americans to be able to transship cargoes, because it enables them to keep the fishing grounds, and to make extra trips.

17. I consider it a great advantage to the Americans to be able to procure bait in our inshores.

18. I consider that the Americans could not carry on the cod and halibut fishery profitably without being able to procure bait in our inshores.

19. I consider it a great advantage to Americans to be able to procure ice in our inshores to preserve their bait.

20. It is of no advantage to Canadian fishermen to be able to fish in American waters, and I don't know of any vessel from here ever going there to fish.

21. The privilege granted to Americans to transship cargoes is worth a load, and the privilege of procuring bait in our inshores for fishing cod and halibut is equal to these fisheries.

22. I consider that fishing by Americans in our waters injures us greatly, because they take our fish and impoverish our coast.

EDWARD G. HALL.

Sworn to the best of his knowledge, information, and belief, at New Carlisle, county of Bonaventure, Province of Quebec, Dominion of Canada, this 24th day of July, A. D. 1877, before me.

N. LAVOIE,

Justice of Peace Province of Quebec.

No. 128.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, WILLIAM EDWARD GARDNER, of Louisburg, in the county of Cape Breton and Province of Nova Scotia, merchant, make oath and say as follows:

1. For the twelve years last past, I have been engaged in the buying and selling of fish and for two years previous engaged in fishing in the inshore boat fishing, and am well acquainted with the inshore fishing in and around Louisburg Harbor and with many Canadian and American fishermen.

2. I have seen in this harbor within the last six years from twelve to sixteen American fishing vessels at one time, and think that about seventy-five have come in here yearly during the past six years. The American vessels which come here do not pass through the Strait of Canso. These American vessels are mostly engaged in trawl fishing, and fish wherever they can get fish.

3. On board these American vessels there are from ten to fifteen men. They take on an average from ten to twelve hundred quintals of codfish to each vessel, and make yearly from two to three trips. These codfish are of the best kind, for many of them throw overboard the small fish. American skippers have themselves informed me of this. Thus large quantities of small fish are wasted, for the fish are dead when taken off the trawl, or at least before culled.

4. Around and in Louisburg Harbor during the past six years there has on an average been from eight hundred to a thousand barrels of mackerel taken each year. In Louisburg Harbor there are about one hundred boats engaged in the inshore fishery, and these boats take from one hundred to one hundred and fifty quintals of codfish each, yearly. During the past six years there has been taken yearly on an average about three thousand barrels of herring. About ten years ago larger quantities of mackerel were taken.

6. The Americans take fish by trawling, and trawl so deep that they take the large fish, which are the mother fish, and thus large quantities of spawn are destroyed. The Americans take mackerel with hook and line, they jig them, and they have told us last summer that they had purse seines on board.

7. The inshore fisheries are of very great value to our people, and it is of great importance that they should be protected and fostered, and all the inhabitants here depend upon the fishing.

8. American fishing-vessels purchase bait here in large quantities, mostly herring and mackerel, because it saves time, and without bait the Americans can catch no fish. From twenty to thirty American vessels purchase bait in this harbor yearly. These American vessels all purchase ice in which to pack their bait, from three to ten tons each, and when ice and bait run out they return for more. This ice is indispensable for their bait, for they tell me they cannot profitably catch fish without fresh bait.

9. I am not aware of any Canadian vessel fishing in American waters, nor have I ever heard of any. The privilege of fishing in American waters I consider of no value, while the Americans take vast quantities of fish out of our waters.

10. The amount of ice and bait taken by American fishing-vessels is worth in cash from seventy-five to one hundred and twenty dollars. Their supplies are brought from home with them, and they only purchase from us when they run short, and the amount purchased, except ice and bait, is very small.

11. In my opinion, if American fishermen were excluded from Canadian waters and our markets left to ourselves, it would be much better for our fishermen.

J. E. GARDNER.

Sworn to at Louisburg, this 27th day of July, A. D. 1877, in the county of Cape Breton, before me.

PATRICK O'TOOLE,
J. P. for the County of Cape Breton.

No. 129.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, PHILIP LEMONTAIS, of Arichat, in the county of Richmond and Province of Nova Scotia, agent for the firm of Robin & Company, make oath and say as follows:

1. I have had a good knowledge of our fisheries on the coasts of Canada during the past twenty-five years, for twenty years of which I have been agent of the firm of Robin & Company, who do an extensive fishing business in various parts of the world, the principal house being

situated in Jersey, one of the Channel Islands, with branches at various points, and among others at Arichat, Cheticamp, Passepebiac, Perce, Caraquet, Grand River, and other places in Canada.

2. I am quite confident that the number of American fishing-vessels in the Gulf of St. Lawrence ranges from six hundred to eight hundred vessels yearly. I am perfectly confident that is below the mark, and I have good means of knowing it, as I have been agent of Robin & Company at Cheticamp, on the northwestern shore of Cape Breton, for the greater part of twenty years. The harbor of Cheticamp is much frequented by American fishing-vessels, and I have seen at one time along the shore between six hundred and eight hundred fishing-vessels, most of which were American. These vessels were fishing for mackerel along the shore of Cape Breton.

3. I consider that five hundred barrels of mackerel per vessel each season is about the average catch of the American mackerelers in the Gulf of St. Lawrence. These mackerel are worth, on an average, ten dollars per barrel.

4. The mackerel fishery is variable, being occasionally poor for a year or two, and afterwards becoming excellent again. The mackerel fishery was very good from 1871 to 1874, but poor in 1875 and 1876. I have known these fish to be scarce for a year or two, as they were in 1875 and 1876, and afterwards come in plenty again; and I believe, and my experience teaches me, that the mackerel will be again abundant on our coasts.

5. The Americans catch the mackerel with hook and line, and within the last two or three years they are using purse seines, which, in my opinion, are very injurious to the mackerel fishery. The codfish are caught by the Americans with trawls, which are also very destructive to the fishery.

6. Since the year 1871 the Americans have fished almost altogether within three miles of the shore for mackerel. I believe that the outside fisheries are not to be compared in value to the inshore fisheries on our coasts. The Americans must catch at least one-half the mackerel they get within three miles of the shore.

7. There is no doubt whatever that our inshore boat-fishery is greatly injured by the Americans fishing in our waters, as the latter come in and throw bait and draw away the mackerel from the boat-fishermen.

8. Since 1871 the Americans have been injuring our fisheries very much more than formerly, as they have been allowed to come inshore among our own fishermen.

9. The herring fishery on our coast is altogether an inshore fishery.

10. The food of mackerel is found chiefly inshore, and it is probably close to the shore where they spawn and breed.

11. It is a very great advantage to American fishermen to be allowed to transship their cargoes on our shores. This privilege saves them about two or three weeks on each trip they make to the Gulf of St. Lawrence for mackerel, and this in the best part of the fishing season.

12. The privilege of procuring bait in Canadian waters is, of course, a very great advantage to American cod-fishermen. The greater part of their bait is purchased from our fishermen, and it is cheaper for them to obtain it in that way than to spend the time in catching it themselves. I don't believe that the Americans can profitably carry on the cod fishery of the deep sea without resorting to the shores of Canada or Newfoundland for bait. It is also a great advantage to the American cod-fishermen to be allowed to procure ice on our shores to keep their bait fresh while on their way to the fishing grounds.

13. The privilege of fishing in American waters is, in my opinion, utterly valueless to Canadians; and I have never, in my experience of a quarter of a century, heard of any Canadian vessel fishing in the waters of the United States.

14. I consider that the privilege of transshipping cargoes is worth to American fishermen about 50 per cent. of their catch. The privilege of baiting is also worth a large proportion, probably more than 50 per cent. of the whole catch, to the American cod-fishermen.

PHILIP LEMONTAIS.

The said Philip LeMontais was sworn to the truth of this affidavit at Arichat, in the county of Richmond, on the 3d day of August, A. D. 1877, before me.

E. P. FLYNN,
A Justice of the Peace.

No. 130.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, CHRISTOPHER SMYTH, of Port Hood, in the county of Inverness, merchant, make oath and say as follows:

1. I have been for the past twenty years engaged in the supplying business, as a clerk in a supplying establishment, and latterly as a merchant, and have had pretty good opportunities of becoming familiar with the general trade of this coast. I have dealt in all kinds of pickled and dry fish to the extent of five thousand dollars annually.

2. During the Reciprocity Treaty I have known over four hundred American vessels fishing in the waters of this coast annually, and no doubt many more fished on other parts of the British American coast that I did not know of. The vessels engaged in the fishing business are of about 60 tons, and the crew numbers about fifteen men. The chief fish taken by the American fishermen are mackerel and codfish.

3. The American vessels usually make about two or three trips during the season, and the cargo of each of these would average something less than three hundred barrels per trip, so far as I am aware. The price of mackerel during and after the Reciprocity Treaty was about \$15.00 per barrel American currency.

4. I have seen American fishermen fishing within three miles of the shore during the Reciprocity Treaty and during the Washington Treaty, but I would not like to state what proportion was caught during the treaty inshore, as I have no accurate means of knowing.

5. American fishing-vessels usually begin to arrive here about May and procure bait for the cod-fishing. In July they come here to begin the mackerel fisheries, and continue until November each year.

6. Port Hood, during the Reciprocity Treaty, was a favorite or general place of resort for American fishing-vessels. They came here for bait, supplies, outfits, and men. I have seen two hundred sail in this port at one time.

7. The catch of mackerel has fallen off somewhat during the past two or three years in this part of the coast, but this has not been owing to any diminution in the number of mackerel actually frequenting our shores; I don't believe there has been any falling off in the quantity of mackerel on our shores; and I believe, according to the best of my

judgment, that there will be as productive yield of mackerel during the coming eight years as for eight years past.

8. It is a great advantage to American fishermen coming to Canadian waters to be allowed to land and dry their nets and cure their fish; and if they had not this privilege, it would largely diminish the profits of their business.

9. I consider the opportunity given to the American fishermen of transshipping cargoes by the Treaty of Washington a great advantage to them. This is not done to any extent at Port Hood, but I am informed that it is done at the Strait of Canso, and I believe that this privilege may become before long a source of great profit to American fishermen, as the fish can be preserved in ice, and forwarded direct to American markets fresh.

10. The American fishermen procure bait for their fisheries in Canadian ports. Latterly, they purchase this, rather than catch it, but the only reason they have for doing this is because it is more convenient and profitable for them to do so. There is nothing to hinder them from taking herring and squid from our inshores if they prefer to do so.

11. In my opinion the Americans could not carry on the cod and other deep-sea fisheries profitably around our coasts if they had not the privilege of procuring bait at our ports. It would put them to great inconvenience, and lessen the number of their trips each year.

12. I would not undertake to estimate the cash value to each American fishing-vessel to enjoy the privilege of our inshore fisheries, and of procuring bait and supplies and transshipping cargoes, but it is very great. And if all these privileges were taken away, I cannot see how American fishermen could continue to prosecute the fisheries around this coast.

13. The privilege of fishing in American waters is of no value whatever to Canadian fishermen. I never heard of any Canadian availing himself of this privilege, nor is there any prospect of such a thing.

CHRISTOPHER SMYTH.

Sworn to at Port Hood, in the county of Inverness, this 20th day of July, A. D. 1877, before me.

D. CAMPBELL, J. P.

No. 131.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, JOHN INGHAM BRAND, of Pubnico, in the county of Yarmouth, esquire, make oath and say as follows:

1. I have been engaged in the fisheries twenty-two years; several years on board of American vessels in Canadian waters.

2. About six hundred American vessels, from all ports, are engaged in fishing in Canadian waters; the average number of men is about fourteen. This is within my knowledge the past fifteen years. They fish for mackerel, codfish, and halibut, from Bay de Chaleur to Cape Forchu.

3. As I never was master of a fishing-vessel, I cannot give the average quantity taken by American vessels in Canadian waters.

4. The mackerel on our Nova Scotia shores are improving; herring not so good as in the past. The cod fishing is improved on account of the facilities for bait and ice to keep it fresh.

5. Codfish and halibut are chiefly taken by the Americans with trawls; mackerel by hook and line.

6. The practice of throwing fish offals by American fishermen is general, and the practice is very injurious to our fishery grounds, by bringing in a large quantity of useless fish, such as sharks, dog-fish, &c., and destroys the bait or young fish on which the codfish feed.

7. American vessels have fished close to the shore, before and during the Treaty of Washington, for mackerel, halibut, and codfish.

8. The inshore fisheries are much more valuable than the outside, on account of the privilege of bait.

9. Cannot give any estimate of inshore and outside catch.

10. Know that American fishermen throw large quantities of clams and pogies, ground, to entice the mackerel about their vessels; have assisted myself in doing it. Cannot say how much injury this may do the fishery.

11. Do not know of the American fishermen using seines in Canadian waters.

12. Not in my knowledge that the American fishermen use purse seines in Canadian waters.

13. American fishermen catch bait in nets within three miles of our shores and bays.

14. Halibut and codfish are caught by American fishermen in the inshore waters of Canada. Halibut, codfish, haddock, hake, and pollack are caught inshore by Canadian fishermen.

15. There is a large increase in the quantity of fish taken since 1871, owing to the protection to the river fishery, which causes large quantities of small fish for bait, which brings them to the inshores.

16. Americans having free access to our fisheries, will cause the fish taken by our fishermen to bring a much less price than if they, the Americans, were not allowed the privilege of our shores.

17. The herring fishery in Canadian waters is greater inshore than outside. American fishermen catch herring for bait only; they purchase them for sale most at Newfoundland, a few in Nova Scotia.

18. They Bay de Chaleur mackerel are better than those caught in American waters, and will always command a higher price in the American markets.

19. The food of mackerel is mostly inshore, and is a small species of shrimp called brit, and their principal feeding and breeding places are inshore.

20. It is a great advantage for Americans to land their mackerel, which enables them to make two fares; do not know of any use made of our shores to land and dry nets.

21. It is a great advantage to the Americans to have the privilege of transshipping cargoes of fish in Canadian waters, and enables them to make more trips and catch more fish during the fishing season.

22. It is certainly a great advantage to American fishermen to be able to procure bait in the Canadian inshores; they prefer to buy it when they can, and only fish for it when they cannot buy it.

23. The American fishermen could not carry on their fishery with any profit without having the privilege of Canadian inshores to procure bait.

24. It is a great advantage to the Americans to resort to Canadian inshores for ice to preserve bait and other supplies for their vessels.

25. The privilege of fishing in American waters is of no practical value or advantage to Canadian fishermen.

26. American fishermen could not prosecute their fishery to any advantage without the privilege of procuring bait in Canadian inshore

waters; the value for this privilege would be at least one thousand dollars for each vessel yearly.

27. Do not know that fishing by American vessels hinders the fishing operations of Canadian fishermen.

28. The United States fishermen employ a large number of our men for their crews; the supplies for these men's families are brought by the American vessels and landed at their homes on our shores, on which there is no duty paid.

JOHN INGHAM BRAND.

The foregoing statement is correct, to the best of my knowledge and belief. Sworn before me at Pubnico the second day of August, A. D. 1877.

ENOS GARDNER,
J. P. for County of Yarmouth.

No. 132.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, EDWARD HURTLE, of Lunenburg Town, in the county of Lunenburg, fisherman, make oath and say as follows:

1. I have been engaged in the fisheries for thirty-five years, every year up to the present. I have fished all along the southern coast of Nova Scotia, around Cape Breton, on the eastern side of New Brunswick, around Prince Edward's Island, around the Magdalenes, and on the Labrador coast. I have been personally engaged in the Bank fishery. I am also well acquainted with the inshore fishery in Lunenburg County. I have taken all the kinds of fish found on the above-mentioned coasts.

2. When in the North Bay I have seen many American vessels there engaged in taking mackerel. There were there from four to five hundred, at least, every year. These American vessels carried from twelve to eighteen men. They took, on an average, during each trip, three hundred barrels of mackerel, at least. They made from two to three trips. The most of the mackerel were taken inshore, and, in my opinion, it would not pay to go for mackerel unless they can be taken within three miles of the shore.

3. When in the North Bay, I have seen often from fifteen to twenty American vessels at one time engaged in taking codfish. These vessels carry from ten to thirteen men, and take, on an average, one thousand quintals in a season. The American vessels in the bay take most of their fish with trawls, and I have seen them taking fish around Seaterie by trawling within two miles of the shore.

4. I have seen the Americans, year after year, on the Labrador coast, engaged in taking herring. I have there seen at one time from six to eight American vessels. These vessels take about twenty-four men each, and average at least twenty men. They take both herring and codfish by seining on the shore. These vessels average about two thousand quintals to a vessel.

5. In my experience the mackerel always varied, being some years good and others poor. I have heard that they are very plentiful in the bay this year. The herring fishery has always been good. Three years ago I was half-owner of a schooner which fished out of this port. Three years ago she took twenty-one hundred quintals, the year before last

twenty-two hundred and fifty, last year a thousand. This vessel was out each year about five months and a half, and carried twelve hands each year.

6. About nine years ago the Americans took mackerel mostly with hook and line. They also took some with purse seines. The Americans, ever since I have known them, took codfish with trawls, except on the Labrador coast, and I have known the way in which they carried on the cod fishery for thirty-five years. I have often on the Banks, in a clear day, counted from twenty-five to thirty vessels, most of whom were Americans, engaged trawling. These vessels carried from six to seven thousand hooks each, and threw the gurry of their fish overboard, which is very injurious to the grounds. They also, by trawling, take the mother fish, which is not done to any great extent in hand-lining. It is only within four years that our vessels commenced trawling. They have done so in order to compete with the Americans, and know it is injurious to the fishery. There are at least from thirty to forty vessels engaged in trawling out of Lunenburg County. The Americans take herring inshore with seines.

7. In my experience the Americans took fish wherever they could catch them, whatever the terms of the treaty were. They made off from the shore when a cutter was in sight and returned when she disappeared. I was in the North Bay when the fisheries were protected by a Captain Campbell, in the Devastation, and we then took better fares.

8. In my opinion, the inshore catch of fish is of much greater value than that of those taken outside.

9. I have seen the Americans when they had not the right of fishing inshore throw bait overboard to entice away the fish; when they got the fish outside they commenced taking them.

10. I have seen the Americans catch squid at Canso, Crow Harbor, Cheticamp, and other places within three miles of the shore, for codfish bait. They take this bait in the bays and harbors all along the Canadian coast. The Americans buy herring and mackerel for bait from the Magdalenes to Cape Sable in the bays and harbors of Canada. They buy this bait because it saves time, trouble, and expense. This privilege of getting bait interferes with Canadian bankers.

11. There are large quantities of codfish, halibut, haddock, hake, and pollock taken within three miles of the shore by Canadian fishermen, and thousands of our people depend upon these fish for a livelihood in Canada.

12. The herring fishery in Canadian waters is all inshore. The Americans purchase them early in the season for bait, as already stated.

13. When in the American markets, about twenty years ago, I found that Canadian fall mackerel were much superior to American.

14. The privilege of transshipping cargo is of great advantage to Americans, as by this plan they save time and catch more fish. It is worth at least two thousand dollars to each vessel which does so.

15. The Americans get bait in Canadian waters inshore, and without this bait and ice, which they also get from Canadians, they could not carry on the deep-sea fishery around our coast. The bait must be fresh, and ice is necessary to keep it thus.

16. I have never known nor heard of any Canadian vessels fishing in American waters, and I consider this right of no value.

17. I consider that it would be a great benefit to Canadian fishermen if the Americans were excluded from our inshore waters, and I know of no benefit whatever that we derive from American fishermen.

EDWARD HIRTLE.

Sworn to at Lunenburg, in the county of Lunenburg, this 10th day of August, A. D. 1877, before me.

J. W. LOCKHART,
Justice of the Peace.

No. 133.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, RUFUS RISER, of Rose Bay, in the county of Lunenburg, fisherman, make oath and say as follows:

1. I have fished for sixteen years, and have fished around Cape Breton, eastern side of New Brunswick, around Prince Edward's Island, the Magdalenes, and on the coast of Labrador. I have fished mackerel, and took them principally inshore, within three miles of the shore, and it would not have paid us to fish mackerel unless we could get them within three miles of the shore.

2. I have fished codfish on the Labrador coast for the last sixteen years with the exception of a few years. We took the codfish inshore, within three miles of the shore, mostly with hook and line. I have during this time seen American vessels every year on the said coast taking codfish inshore. The Americans take the codfish on the Labrador coast by seining, and throw away the small ones. They take the codfish with seines from the shore, and close up on the shore. I have seen during the past sixteen years, every year that I was on the Labrador coast, of which I was there twelve years, and also this year, and every year for the last six, except last year, the Americans in large numbers taking herring. They take the herring with seines from the shore, and the Americans might as well stay at home if they were not allowed to take the fish inshore.

3. The Americans get bait all along the coast of Nova Scotia in our bays and harbors, and on the Labrador coast; without this bait they could not carry on the deep-sea fishery.

4. The Americans have introduced trawling, and we were compelled to adopt this plan of fishing in order to compete with the Americans. Trawling I consider a great injury to the fishery, as it destroys the mother fish.

5. It would, in my opinion, be a great benefit to Canadian fishermen if the Americans were excluded from our inshore fisheries.

RUFUS RISER.

Sworn to at Rose Bay, in the county of Lunenburg, this 8th day of August, A. D. 1877, before me.

JAMES H. WENTZEL, *J. P.*

No. 134.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington:

I, JOHN MORIEN, of Port Medway, in the county of Queen's, fisherman, make oath and say as follows:

1. I have been engaged in the fisheries for the past forty years, down to the present time. I have fished along the southern coast of Nova

Scotia around Cape Breton, on the eastern side of New Brunswick, around Prince Edward Island, around the Magdalenes, on the Canadian coast of Labrador, and am well acquainted with the inshore fisheries along the southern coast of Nova Scotia.

2. When in the North Bay, about eight or nine years ago, I saw large numbers of American mackerelmen. From calculations then made by Nova Scotia fishermen, we concluded that there were upwards of three hundred American vessels in the North Bay. I was in the North Bay the fall in of 1872, and the mackerel were very plentiful. I was about a fortnight ago engaged in fishing on the eastern side of Cape Breton. I was at Gabarus, Louisburg, St. Ann's Ingonish, Bras D'Or, and Smoky Cape, and around Cape North, and I found the fish there very plentiful—the mackerel more plentiful than the oldest inhabitant has any recollection of. The mackerel are of most excellent quality, being very large. Those mackerel are found inshore, within three miles of the shore, and it would not pay any vessel to go to the North Bay unless they could catch mackerel within three miles of the shore.

3. The American vessels make, on an average, two trips when engaged in taking mackerel. The Americans in a good season take, on an average, about three hundred barrels of mackerel to each vessel on each trip. These mackerel vessels carry from ten to twenty hands to each vessel. The American vessels which run into the North Bay take from five hundred to a thousand quintals to each vessel. When on the Cape Breton coast last year I saw an American vessel which took from six to seven hundred quintals of codfish seven miles from Sydney Light, and only changed her ground three times, as I was informed by the American skipper. The Americans take the most of the codfish in the North Bay by trawling. This trawling I consider injurious to the fishery, as it takes all the mother fish. In hand-lining very few mother fish are taken. When on the Canadian coast of Labrador, I saw the Americans take large quantities of codfish inshore, within three miles of the shore.

4. In my experience, the mackerel fishery has always varied, being good for a number of years and again poor. In the falls of seventy-one, seventy-two, and seventy-three, the mackerel were very plentiful. The cod-fishery has generally been good, except when bait is scarce.

5. The Americans formerly carried on the mackerel fishery with hook and line. They now use purse-seines, which I consider very injurious to the mackerel fishery. I saw, four years ago, two large American schooners engaged in taking mackerel at Cape Canso with purse-seines, within a half a mile of the shore. These vessels carried about eight hundred barrels of mackerel each. The Americans now take all their codfish by trawling. The Americans around the Magdalenes and on the Labrador coasts take herring by seining on the shore.

6. The throwing overboard of offal, in my opinion, is injurious to the fishery, as it pollutes the water, gluts the fish, and drives them away.

7. In my experience, the Americans fished inshore whenever they could. They made off shore when a cutter appeared and returned when she disappeared. They lee-bowed us Nova Scotian vessels, weather-bowed us, ran into us, and did nearly what they pleased, and have almost entirely, since 1871, driven our vessels out of the mackerel fishing. When the fishery was protected, and the Americans had not the right of fishing into the shore, our vessels made better fares.

8. In my opinion, the inshore fish are double the value of the off shore catch in Canadian waters.

9. The Americans get bait and ice all along our coast in the bays and harbors. They jig squid in any harbor, cove, and creek, and wherever

they can find them. They buy herring and mackerel. They do so because it saves time and the expense of fitting out their vessels with net. The Americans being allowed to get bait, interfere with our vessels, as they come at a time when herring and mackerel are scarce. Last year an American vessel loaded with halibut inside of the Kettle, between Scaterie and the main-land, and trawl around there for halibut.

10. Since seventy-three the mackerel fell off until this year, when they are very plenty again. On the banks the codfish during the past six years have fallen off to some extent. This the fishermen attribute to too much trawling.

11. The herring fishery is all inshore in Canadian waters, and the Americans catch them for bait, as already stated.

12. I have often heard the Americans say that our fall mackerel is much superior to theirs.

13. The mackerel make inshore to feed. They trim the shore, are taken inshore, and I consider them an inshore fish.

14. I have often seen the Americans transship their cargoes at the Strait of Canso, and in a good season they would save from two to three thousand dollars to each vessel by so doing. By this privilege they save time, expense, and catch more fish. They are enabled to refit and remain constantly on the ground.

15. The Americans get bait and ice in this county in large quantities, and without this bait and ice in which to keep it fresh it would be impossible for the Americans to carry on the deep-sea fishery. When the Americans come on to our coast they make every effort to get bait, and ice in which to keep it fresh, because they say that without this bait and ice they could catch no fish.

16. I have never known nor heard of any Canadian vessel fishing in American waters, and I consider this right to be of no value to Canadian fishermen.

17. Such large numbers of Americans carry off great quantities of fish and make them scarce for our fishermen. They injure our grounds by throwing overboard large quantities of offal, and by trawling. They interfere with our supply of ice and bait.

18. It would be a great benefit, in my opinion, if the Americans were excluded from our fishing grounds, particularly our inshore fisheries.

JOHN MORIEN.

Sworn to at Port Medway, in the county of Queen's, this 14th day of August, A. D. 1877, before me.

E. C. SEELY, J. P.

No. 135.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, JOHN SMELTZER, of Lunenburg Town, in the county of Lunenburg, master mariner, make oath and say as follows:

1. I have been engaged in the fisheries for about thirty-five years; for twenty-seven years I have fished as master in a vessel of my own with eleven hands. I have fished along the coast of Nova Scotia, eastern side of Cape Breton, around Prince Edward Island, and in the Bay of Chaleurs, on the east coast of New Brunswick, and have been Bank fishing, and am at present well acquainted with the inshore fishery in Lunenburg County. I have fished mackerel, herring, codfish, halibut, hake, haddock, and pollock.

2. About eleven years ago, when in the Bay of Chaleurs, I saw in Malpeque Harbor, Prince Edward Island, about seventy sail at one time, all American fishing vessels. Last fall I saw around Port Hood about seventy sail of American vessels at one time. American mackerelmen average about fifteen men. I have seen as many as thirty men in one American mackerelman. American codfishmen carry from twelve to twenty men. Mostly all the mackerel is taken inshore, and I would not give a pin for all taken outside of three miles.

3. The Americans averaged about from five to six hundred barrels of mackerel in the season to each vessel. American cod-fishermen take from one to three thousand quintals to each vessel. American mackerelmen make about three trips, cod-fishermen the same.

4. Mackerel, in my experience, have often varied. About fifteen years ago they were very scarce; since that time they have often been plenty. Some years they strike in very plenty; other years they are scarce, and this is my experience for forty years. Herring fishery remains about the same. Codfish can always be had if bait is plenty.

5. Americans take mackerel inshore mostly with hook and line; and I have seen Americans within three miles of the shore at Cascumpec, Prince Edward Island, use purse seines, about eleven years ago. The Americans carry on cod and halibut fishing mostly by trawling, some with hook and line.

6. The Americans throw overboard the offal of the fish when codfishing, and particularly the sound bone, which is very injurious to the fish and fishing-ground, and I have myself caught large codfish with the sound bone in them, and they were reduced to mere skeletons.

7. The Americans, in my experience, always fished inshore when they could for mackerel. I have seen them fish in so close to the shore that their vessels grounded. When a cutter hove in sight they got away as quickly as they could, and came inshore again whenever the cutter was out of sight. Out of Lunenburg County, about fifteen years ago, there were from thirty to forty vessels engaged in mackerel-fishing, and when this fishery was protected by cutters our vessels made good fares. Since the Americans have been admitted to the inshore fishery our vessels have done very poorly.

8. The inshore fisheries are of much greater value than the outside fisheries. The inshore fisheries are worth four times that of the outside fisheries.

9. About fifteen years ago I have seen American vessels fishing for mackerel in the back harbor of Lunenburg, and I have baited an American vessel in this harbor about five years ago. Other parties have often baited American vessels in the harbor. The Americans mostly purchase the bait they get, in order to save time.

10. In the North Bay I have seen Americans catch codfish inshore, and large quantities of codfish are taken inshore by Canadian fishermen, and also halibut.

11. Since 1871 fish have fallen off somewhat. This, I think, is owing to the large number of Americans who visit our shores to take fish.

12. The herring fishery is all inshore, and the Americans buy them from our fishermen in order to save time, as also do the vessels which we fit out ourselves in order to save time.

13. The run of mackerel is sometimes of better quality than at others. When our run of mackerel is good it cannot be beaten, and three falls ago I was in Boston market with our mackerel, and it was much superior to any mackerel which I there saw.

14. Mackerel follow the shrimp inshore, and spawn inshore in the bays and harbors around our coasts.

15. About Canso I have often seen Americans land and dry their nets. This privilege I consider of great value to them, as it enables them to carry on the inshore net fishery.

16. I have seen Americans transship their cargo at Canso, and by so doing they save a great deal of time, and catch more fish. They save from two to three weeks in the best of the season.

17. If the Americans could not procure bait inshore from Canadian fishermen, and ice in which to pack it, they could not carry on, in my opinion, the Bank fishing with success, and they buy bait, as already stated, in order to save time. They could not preserve their bait without ice, and they get ice along the coast near where they get bait.

18. I do not know nor have I ever heard of any Canadian vessels fishing in American waters, and I consider this privilege of no value.

19. In fitting out vessels, which I have often done, the Americans make bait and ice scarce because of the larger quantities of herring and mackerel they take away before these fish become plenty, and thus hinder our fishing-vessels. They make the fish scarce for our inshore fishermen.

20. In my opinion our fisheries would be more than double their present value to us if the Americans were excluded.

JOHN SMELTZER.

Sworn to at Lunenburg, in the county of Lunenburg, this 4th day of August, A. D. 1877, before me.

JOSEPH W. LOCKHART, *J. P.*

No. 136.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, ELIAS RICHARDS, of Getson's Cove, in the county of Lunenburg, fisherman, make oath and say as follows:

1. I have been fishing for the last thirty years continuously. I have fished along the southern coast of Nova Scotia, around Prince Edward Island, around the Magdelenes, and along the Canadian coast of Labrador. I have taken all the kinds of fish found on the above-mentioned coasts. I am also well acquainted with the inshore fishery in Lunenburg County. I have also been engaged in banking fishing to a large extent.

2. For twenty-four falls I fished in the North Bay successively, except one or two falls, down to the fall of seventy-five, inclusive, for mackerel. I have seen in the North Bay, at one time together, over four hundred American mackerel-vessels in Malpeque, and in Port Hood; in Malpeque there were so many that I could not anchor, and ran ashore. During the past five or six years I was in the North Bay I have seen from 200 to 300 American mackerelmen, and every fall I was there it was quite common to count from one hundred to one hundred and fifty American vessels from the deck of our schooner. There were many there which I did not see. These vessels took the most of their mackerel within three miles of the shore, sometimes close into the shore, and it would not pay vessels to go into the North Bay to fish mackerel unless they could take them within three miles of the shore.

3. These American mackerelmen carry from twelve to twenty-two

hands to each vessel. In a good season one of the larger vessels usually takes from five to six hundred barrels. These vessels make from two to three trips.

4. Every year down to seventy-seven I have seen many American codfish-vessels in the North Bay taking codfish. They have increased every year, and this year I have seen more than ever before. These codfish-vessels carry from ten to fourteen men. These vessels take from five to six hundred quintals of fish to each vessel, and make about two trips. These American vessels fished in among the boats and wherever they could catch fish.

5. On the Labrador coast I have seen Americans seine codfish close in on the shore, and have seen engaged there four at one time.

6. Around the Magdalenes I have seen the Americans take herring all inshore. I have seen there at one time from sixty to seventy vessels at one time. These vessels carry from eight to ten men each, and take from nine hundred to ten hundred barrels each.

7. In my experience, mackerel have varied, being some years plenty and others scarce. The herring fishery seldom varies, being mostly always good. The codfish has fallen off some.

8. In former years the Americans took mackerel with hook and line; they now take large quantities with purse seines. They take nearly all the codfish by trawling. Most of the American codfish-vessels carry seven thousand hooks each.

9. The Americans throw overboard the "gurry," which is an injury to the fishery, as it gluts the fish and drives them away. Trawling I consider injurious to the fishery, as it takes the mother fish, which are full of spawn. In hand-lining few mother fish are taken. The Americans have made a habit of throwing overboard the small fish, and an American skipper told me last summer that of forty-five quintals or upwards, which he took upon his trawls, he only saved from fifteen to eighteen quintals; the remainder he threw away.

10. In my experience the Americans fished inshore whenever they could, whatever the conditions of the treaty were. They made off when a cutter appeared and returned when she disappeared.

11. The value of the inshore catch in Canadian waters is more, in my opinion, than double the offshore catch, in value.

12. Nearly all the Americans carry purse seines, which I consider a very bad way of taking mackerel. I have never seen nor heard of any Canadian vessel using a purse seine.

13. I have seen the Americans catch squid for bait in the Canadian bays and harbors, within three miles of the shore. I have seen them catch these squid at the Strait of Canso, and at Crow Harbor, and other places. The Americans buy herring and mackerel all along our coast from Cape Sable to Labrador, wherever they can get it, and ice in which to keep it fresh. This privilege of getting ice and bait accorded to the Americans interferes with Canadian bankers, making bait and ice dearer and scarcer.

14. The Americans buy bait in order to save time and expense, and without this bait, and ice in which to keep it fresh, they could not carry on the deep-sea fishery.

15. The Americans, since 1871, have injured the Canadian fisheries by taking great quantities of fish, by improper methods of fishing, and by interfering with the supply of ice and bait.

16. The mackerel feed, to a considerable extent, on shrimps found inshore, they spawn inshore, and are an inshore fish.

17. The privilege accorded to the Americans of taking fish and trans

shipping them, saves them time and expense, and enables them to take more fish.

18. I have never known nor heard of any Canadian vessel fishing in American waters, and I consider this right of no value.

19. I consider that it would be a great benefit to Canadian fishermen if the Americans were excluded from our inshore fisheries, and I know of no benefit which we derive from the American fishermen.

ELIAS RICHARDS.

Sworn to at Getson's Cove, in the county of Lunenburg, this 11th day of August, A. D. 1877, before me.

JOSEPH W. LOCKHART, *J. P.*

No. 137.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, JAMES GETSON, of Getson's Cove, in the county of Lunenburg, fisherman, make oath and say as follows :

1. I have fished from twelve to fourteen years along the southern coast of Nova Scotia, around Cape Breton, eastern side of New Brunswick, around Prince Edward Island, around the Magdalenes, on the Canadian coast of Labrador, and on the Banks, and am well acquainted with the inshore fisheries in Lunenburg County. I have taken all the kinds of fish found on the above-mentioned coasts.

2. I have fished this summer and last around Prince Edward Island and the Magdalenes, and on Bank Bradley; and I saw there many American vessels, some engaged in taking mackerel, and others engaged in taking codfish. Last summer I saw as many as fifteen at one time fishing together day after day. I saw during last summer as many as two hundred. These I saw before the middle of August. These American mackerelmen carry from fourteen to twenty men to each vessel. Four years ago, when fishing in the North Bay, I have seen over four hundred American mackerel-vessels in a fortnight; and I have, along with other fishermen, put the number of American vessels down at from five to six hundred. These vessels catch the most of their mackerel inshore, within three miles of the shore; and in my opinion it would not pay to fish mackerel unless they were taken within three miles of the shore.

3. Last summer and this summer I saw large numbers of American codfish vessels around Prince Edward Island and the Magdalenes. I saw last summer often from twenty to twenty-five in a day engaged in taking codfish. The Americans take all their fish in the North Bay by trawling. Very few Canadian vessels take fish in the North Bay by trawling; they use mostly hook and line. I consider trawling a very injurious method of taking fish, as it destroys the mother fish. The Americans carry from eight to ten thousand hooks on their trawls to each vessel. By trawling the bait lies on the bottom, and the big fish take it; this is not the case in hand-lining.

4. The American codfish vessels carry about fourteen men on each vessel, and take about six hundred quintals on each trip. They make three trips.

5. I fished in the North Bay for mackerel when the fisheries were protected, and our vessels did better than when they were not protected, and took more fish. The Americans fished inshore at that time to a

large extent, they made off when a cutter appeared, and returned when she disappeared. I saw several American vessels seized when I was there during the protection time. The Americans made a practice of running into us, and their vessels were stronger and more numerous than ours, being built of oak.

6. The Americans get bait and ice along the coast from Cape Sable to Labrador, and without this they could not carry on successfully the Bank fishery.

JAMES GETSON.

Sworn to at Getson's Cove, in the county of Lunenburg, this 9th day of August, A. D. 1877, before me.

JOSEPH W. LOCKHART, *J. P.*

No. 138.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, JAMES PUBLICOVER, of New Dublin, in the county of Lunenburg, fisherman, make oath and say as follows :

1. I have been engaged in the fishing for thirty-five years down to 1871 inclusive. I have fished all along the southern side of Nova Scotia, around Cape Breton, on the eastern side of New Brunswick, around Prince Edward Island, around the Magdalenes, and on the Labrador coast. I have taken all the fish found on the above-mentioned coasts.

2. Between eight and ten years ago I have seen in Port Hood Harbor, at one time, eight hundred sail, of which number over seven hundred were Americans. I would be safe in saying that there were over a thousand sail engaged in taking mackerel in one season in the North Bay. Some years I have seen more and some less. These vessels took mostly all the mackerel inshore.

3. These American vessels carry from twelve to twenty-two hands. They took from four to five hundred barrels of mackerel to each vessel, on each trip. Ran into the Strait of Canso, landed their fish, refitted and went out again. They came in again and took a full cargo for home, often fifteen hundred barrels. They generally made two trips, sometimes three. When in the cod fishery in the North Bay, I have seen many Americans also taking codfish. These codfish vessels carried from ten to twelve men, and took from six to eight hundred quintals.

4. When in the North Bay the fisheries were protected by cutters for some time. The Americans fished inshore when the cutters were out of sight, and made off when a cutter appeared. This was always my experience. I have seen two American vessels made prizes of by a cutter.

5. The inshore fisheries in Canadian waters, within three miles of the shore, are of more value than the off-shore fishery. I would say more than double.

6. Our Canadian fishermen catch codfish in large quantities around the coast within three miles, also halibut. I have seen many American vessels take codfish on the Labrador coast within three miles of the shore by seining.

7. For twelve to fifteen years I have taken mackerel in the North Bay, and in my experience they varied in quantity and quality, being some years good and others poor. Mackerel schools have struck into this harbor this year pretty plentifully.

8. The herring fishery in Canadian waters is all inshore, and they are

taken all inshore. The Americans buy these herring for bait all along the coast; by buying they save time and expense.

9. I have never known or heard of any Canadian vessels going into American waters to take fish, nor do I know of any benefit to Canadians from this right.

10. I have seen Americans running into harbors in Cape Breton and Prince Edward Island to cure fish. When a gale of wind comes on they do this.

11. I have often seen the Americans transshipping their cargoes at the Strait of Canso; by so doing they save time and expense and take more fish.

12. It is a great advantage to the Americans to get bait and ice along the Canadian coast, and this they do from Cape Sable to Labrador and wherever they can. Without this bait, and ice in which to preserve it, they could catch no fish.

13. When in the North Bay I have often been lee-bowed by American vessels, and I have seen them running into Nova Scotian vessels.

14. If the Americans were shut out from our inshore fisheries it would be of great benefit to Canadian fishermen, and I know of no benefit that we derive from American fishermen.

JAMES PUBLICOVER.

Sworn to at New Dublin, in the county of Lunenburg, this 9th day of August, A. D. 1877, before me.

BENJ. RYNARD, *J. P.*

No. 139.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, DONALD MCDUGALL, of Main-a-Dieu, in the county of Cape Breton, merchant, make oath and say as follows:

1. I have been engaged in the buying and selling of fish for twenty-five years, and am well acquainted with the fisheries as carried on here, and am well acquainted with the fishermen from Big Lorraine to Miri Bay, and have done business with American fishermen.

2. The fish taken in this vicinity during the past twenty-five years has been codfish, mackerel, herring, halibut, and salmon. Formerly halibut was very plentiful, so much so that our inshore fishermen could always catch a fare, but since the Americans came here trawling for them they have almost disappeared. The best halibut grounds are within three miles of the shore, and on these grounds the Americans trawled. Our fishermen never trawled for halibut.

3. In this vicinity there are taken annually from five to six hundred barrels of mackerel, and are not quite so plentiful as they have been ten or fifteen years ago. There are taken in this vicinity about a thousand barrels of herring. On average there is taken about from seven to eight thousand quintals of codfish. The most of the people in this vicinity depend upon the fishing, which they carry on in small boats inshore.

4. The Americans have always been on this coast, year after year, fishing mackerel. The Americans come inshore and fish mackerel, and diminish the catch for our inshore fishermen. The Americans purchase herring for bait very generally, and then go out on the banks to fish codfish. The Americans around here have fished inshore for codfish and halibut.

5. The Americans trawl on Scaterie Bank for codfish. They trawl to the bottom and catch the mother fish, which are full of spawn. They dress their fish on the fishing grounds, throwing overboard the offal, which is very injurious to the fish, the sound bone killing many large fish.

6. The practices of the Americans tend to injure the inshore fishery very much.

7. Mackerel run inshore to feed and spawn, and our fishermen take them inshore. Americans have taken mackerel all round our coast, and have at one time transshipped mackerel in this port. This privilege saves fish and enables them to make a larger catch.

8. The Americans get ice and bait in harbors round our shores, and without ice and bait they would be unable to make successful voyages.

9. I have never known nor heard of any Canadian vessels fishing in American waters, and know of no benefit they can derive from so doing.

10. The large number of American vessels fishing in Canadian waters must diminish the catch.

11. If Americans were excluded from our waters, I have no doubt but it would be a general benefit to Canadian fishermen.

DONALD McDOUGALL.

Sworn to at Main-a-Dieu, in the county of Cape Breton, this 28th day of July, before me.

GEO. RIGBY, J. P.

No. 140.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, JOHN BAGNALL, of Gabarus, in the county of Cape Breton, at present of Louisburg, in the county aforesaid, fisherman, make oath and say as follows:

1. I have been engaged for about fifty years in the inshore fisheries, in and around Gabarus Bay, in the county aforesaid, and have taken mackerel, codfish, herring, and halibut, and am well acquainted with the manner in which the inshore fishery is there conducted.

2. About six or seven years ago there were some American fishing-vessels in Gabarus Bay. During the past five or six years they have purchased bait in small quantities in Gabarus Bay.

3. Mackerel and halibut are taken in Gabarus Bay. Codfish and herring are taken in large quantities. Three years ago about three hundred barrels of mackerel were taken in this bay, and there are about one hundred boats fishing around the bay, and this summer these boats have taken from eight to sixty barrels in each boat. In Gabarus Bay there are from six to seven thousand quintals of codfish taken yearly. All this fish is taken in boats. To the people around Gabarus Bay these fisheries are of great value.

4. The mackerel and herring are inshore fish, and are mostly all taken inshore. Three-fourths of the mackerel and herring is inshore.

I am to-day at Louisburg, but reside and fish at Gabarus.

JOHN BAGNALL.

Sworn to at Louisburg this 26th day of July, in the county of Cape Breton, before me,

PATRICK O'TOOLE

J. P. for and in the County of Cape Breton.

No. 141.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, PETER BOSDET, of West Arichat, in the county of Richmond and province of Nova Scotia, merchant, make oath and say as follows :

1. During the past thirty-two years I have been engaged in the fishing trade, and my acquaintance with the fisheries on our coasts extends over that period.

2. The herring fishery is about the same as it has been in the past. The mackerel vary from year to year. From 1871 to 1874 the mackerel were plenty, but they were scarce in 1875 and 1876. I believe that the scarcity of 1875 and 1876 will not, however, be permanent.

3. The use of trawls and the throwing overboard of offal are both very injurious to the cod fishery. Both these practices tend to drive away the fish from their usual haunts.

4. The herring fishery is altogether inshore, that is, within three miles of the shore, and the greater part of the mackerel are caught within the same distance. I consider that the inshore fisheries are of much greater value than those outside.

5. I am strongly of opinion that the inshore boat fishery on our coasts has been greatly injured by the Americans baiting the fish and drawing them away from the boats. I refer only to the mackerel in making this statement in this paragraph.

6. I consider that it is a great benefit to the Americans to be allowed to land and dry their nets and cure their fish on our coasts. The privilege of transshipping cargoes is also a great advantage to American mackerelers, and they can of course make more trips and catch more fish than they otherwise could, and by this means, I believe, that they can make three trips to the fishing-grounds in the same time in which they could otherwise make two. The privilege of getting bait on our shores is also a vast advantage to American codfishermen who indeed could not profitably carry on the codfishery without this privilege. The procuring of ice on our shores is also essential to the codfishermen, as without this they cannot keep their bait fresh.

7. The privilege of fishing in American waters is of no practical advantage whatever to Canadians, and I never heard of Canadians availing themselves at any time of such privilege.

8. I consider that the Canadian boat fishermen could carry on their fishery more profitably and successfully if the Americans were excluded from within the three-mile limit.

P. BOSDET.

The said Peter Bosdet was sworn to the truth of this affidavit, at West Arichat, in the county of Richmond, this 2d day of August, A. D. 1877, before me.

E. P. FLYNN,
A Justice of the Peace.

No. 142.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, FRANCIS MARNEAN, of Arichat, in the county of Richmond and province of Nova Scotia, merchant, make oath and say as follows :

1. I have resided here for about sixty years, and have a good knowledge of the fishing-business, and of the fisheries on this coast.

2. The American cod-fishermen, in my opinion, cannot profitably carry on the cod fishery without procuring bait on the shores of Canada or Newfoundland, and I believe that the privilege of procuring ice on our shores is also an advantage to the American cod-fishermen.

3. I do not think that the privilege of fishing in United States waters is of any advantage to Canadians, and I never heard of Canadians fishing in American waters.

4. I believe that our fishermen could carry on the inshore fishery on our coasts, especially the mackerel fishery, very much more successfully if the Americans were excluded from our inshore waters.

F. MARMEAN.

The said Francis Marmean was sworn to the truth of this affidavit at Arichat, in the county of Richmond, on the 4th day of August, A. D. 1877, before me.

ISIDORE LEBLANC,
A Justice of the Peace.

No. 143.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, DAVID GROUCHY, of Descousse, in the County of Richmond, and Province of Nova Scotia, merchant, make oath and say as follows:

1. I have been engaged in the fish trade during the past thirty-three years, and have dealt in codfish, haddock, mackerel, and herrings.

2. I consider the inshore mackerel and herring fisheries to be of very much greater value than those outside. The herring fishery is almost altogether inshore, and I believe that the greater portion of the mackerel are caught within three miles of the shore.

3. From my experience in the fishing business I have no hesitation whatever in saying that it would be far better for Canadians to have their inshore fisheries kept to themselves. Even if the American Government should put heavy duties on our fish, I do not believe that the Americans can give us any adequate compensation for our fisheries, and I believe that it is almost impossible to estimate too highly the value of Canadian fisheries.

4. The mackerel caught in the Gulf of St. Lawrence, are, in my opinion, equal to any in the world. I believe that the reason why American mackerel bring better prices is that they are better handled and put up.

5. Around this coast the food of the mackerel is principally inshore.

6. The privilege of transshipping cargoes is of great advantage to the American fishermen as they are thereby enabled to make more trips and consequently catch more fish than they otherwise could.

7. The privilege of procuring bait on our shores is of great value to the American cod-fishermen, who could not profitably carry on the cod-fishery of the deep sea without this privilege. They also procure ice on our shores to preserve their bait fresh, and without this means of preserving the bait it could not be kept fresh for more than two or three days.

8. It is of no value whatever to Canadians to be allowed to fish in American waters. I have never heard of Canadians availing themselves of the privilege of so doing.

9. I consider the privilege of transshipping cargoes and procuring bait on our shores is worth at least 50 per cent. of their catch to American fishermen.

D. GROUCHY.

The said David Grouchy was sworn to the truth of this affidavit at Descousse, in the county of Richmond, on the 1st day of August, A. D. 1877, before me.

E. P. FLYNN,
A Justice of the Peace.

No. 144.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, ISIDORE LEBLANC, of Arichat, in the county of Richmond and province of Nova Scotia, merchant, make oath and say as follows:

1. During the past two years I have been engaged in the fish-trade, and for twenty years previous thereto I was a master-mariner, and I have a good knowledge of the fisheries around the coast of Canada.

2. Formerly the mackerel were caught altogether with hook and line, but of late years the Americans are using purse-seines in this fishery. The codfish are principally caught with trawls, and the herring with nets and seines. I believe that the cod fishery is being injured by the use of trawls and by the throwing overboard of offal.

3. The American fishermen have fished inside of the three-mile limit whenever they could get the chance. I myself have seen the Americans fishing inside of the three-mile limit after the Reciprocity Treaty, and whenever the government cutters were not in sight.

4. The inshore mackerel and herring fisheries are worth more than the outside fisheries, in my opinion. The greater portion of the mackerel is caught within three miles of the shore, and almost all the herring within that distance. The inshore mackerel fishery is greatly injured by the Americans coming in and throwing bait, and enticing the fish away from the shore fishermen.

5. Both Canadian and American fishermen catch codfish, haddock, hake, and halibut to some extent on our shores.

6. I believe that the mackerel caught in Canadian waters are better than those caught in United States waters.

7. It is a great advantage to the Americans to be allowed to land and dry their nets and cure their fish on our shores. The privilege of transshipping cargoes is also of very great value to the American fishermen, as it enables them to catch more fish by making more trips than they otherwise could. When the mackerel are plenty the Americans can, by means of transshipping cargoes, make two trips to the Gulf of St. Lawrence in the time it would otherwise take them to make one.

8. The American cod fishermen cannot profitably carry on the deep-sea cod fishery without procuring bait on the shores of Canada or Newfoundland.

9. The privilege of fishing in American waters is, in my opinion, of no value whatever to Canadians, and I never heard of any Canadian vessel making a voyage for fishing purposes to American waters.

10. The fishing operations of Canadians are considerably hindered by the Americans fishing in our inshore waters, as they entice away the fish and lessen the inshore catch of our fishermen.

11. The greater part of the bait that the Americans procure on our shores they purchase from our fishermen, but they catch part of it in our inshore waters. This summer I saw an American vessel setting nets for herring in Arichat Harbor.

ISIDORE LEBLANC.

The said Isidore Le Blanc was sworn to the truth of this affidavit at Arichat, in the county of Richmond, on the fourth day of August, A. D. 1877, before me.

E. P. FLYNN,
A Justice of the Peace.

No. 145.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, BRYAN MURPHY, of Port Hood, in the county of Inverness, fisherman and trader, make oath and say as follows:

1. For thirty-five years past I have been actively engaged in the fishing business as a practical fisherman, and during that time I have made trips on board American fishing-vessels, and I have generally been familiar with the fishing business on this coast for all that time.

2. I have known some years as many as seven hundred American vessels fishing in the gulf and the shores around Nova Scotia, Cape Breton, and the Magdalene Islands. I have seen during the Reciprocity Treaty as many as four or five hundred American fishing-vessels in the harbor of Port Hood at one time.

3. The American fishermen catch codfish and mackerel principally in great numbers, and herring, haddock, hake, and halibut in smaller quantities. The American fleet begins to arrive on our grounds about the first of May for the cod-fishing. Then in July they begin the mackerel fishing, and they keep up their fishing operations till into November. They averaged three trips a season under the Reciprocity Treaty, and each vessel took on an average three hundred barrels mackerel, worth \$15 per barrel. The average cargo of codfish was about one thousand quintals, although I have been engaged on board of an American vessel which took fifteen hundred quintals for a cargo. The cargo was worth from \$4 to \$5 per quintal.

4. After the Reciprocity Treaty the American fishing-fleet fell off very much, and the catch was less and the trips fewer for the season, and the profits were very much less. Since the Washington Treaty the American vessels and fishermen are beginning to come back here, and I believe if the Americans do not ruin the grounds and destroy the fisheries that there will soon be as many of them here as during the Reciprocity Treaty. I know of as many as seventy or eighty American vessels that have baited here this season already.

5. During the Reciprocity Treaty I believe that at least two thirds of all the fish taken by the Americans on the coast of British North America were taken inshore. The inshore grounds are always considered the most valuable for fishing in, and often enough have I heard the American fishermen say so. Since the Treaty of Washington and now the Americans catch two-thirds of their fish within three miles of the shore. All bait is got inshore, and in autumn particularly the mackerel cluster near the shore, and it is there they are chiefly caught.

6. I am aware of American fishermen using purse-seines in the mackerel fishery, and there is no doubt it is very destructive to our grounds

Great hauls are made, more than can be saved, and they are killed and allowed to run out. I have seen acres of the grounds filled with dead fish, which, being small, the Americans throw overboard. And it is to this practice of the Americans that I attribute the falling off during the past year or two of the mackerel catch. There are as many fish as ever, but they are glutted, and will not bite as formerly they did.

7. I do not know as I could fix the value of the advantage derived by each American fishing-vessel in being allowed to fish inshore, and get bait and supplies from our ports, but I do not believe they could carry on fishing at all with any kind of profit without these privileges. If they could not bait in Canadian waters it would be impossible for them to carry on cod-fishing on this coast.

8. I know of no advantage which Canadian fishermen derive from the privilege of fishing in American waters. The privilege is absolutely worthless. No Canadian fisherman avails himself of the privilege. I never heard of such a thing. Our fisheries are much richer and more productive than the American grounds, and the Americans are always saying so.

9. If our fishermen had exclusive use of our own grounds, and were not interfered with by American fishermen, we could double of catch every year, and make much greater profits out of our efforts. We should also be able to preserve our grounds, which are being injured every year by American fishermen, not by destroying the fish, which are as abundant as ever, but by preventing the catch by their system of baiting and throwing offal overboard.

his
BRYAN + MURPHY.
mark.

Sworn to at Port Hood, in the county of Inverness, this 23d day of July, A. D. 1877, before me, having first read and explained.

A. MACDONALD, J. P.

No. 146.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, SIMON FERRIS, of West Arichat, in the county of Richmond, and Province of Nova Scotia, merchant, make oath and say as follows :

1. I have been a practical fisherman for nine years of my life and during the past three years I have been engaged in the fish trade, so that my experience of the fishery extends over a period of twelve years.

2. I estimate that about one hundred and fifty American vessels yearly touch at the island of Madame for bait and other supplies.

3. I believe that the American fishermen have injured our fishery since 1871 by the use of purse seines, which, in my opinion, are very injurious to the fishery, as they tend to break up the schools and drive the fish away.

4. The herring are all caught within three miles of the shore, and on this coast all the mackerel are caught within the same distance from the shore.

5. The best mackerel in the market are caught in Canadian waters in the Gulf of St. Lawrence. All the best of the mackerel called "American mackerel" are, in reality, caught in Canadian waters.

6. The privilege of landing and drying nets and curing fish on our

shores is, in my opinion, a great advantage to the American fishermen, as is also the privilege of transshipping cargoes of mackerel.

7. The American cod-fishermen cannot possibly carry on the cod fishery successfully or profitably without procuring bait on Canadian or Newfoundland shores. It is also essential to their fishery for them to procure ice on our shores.

8. The privilege of fishing in American waters is, in my opinion, worth not a cent to Canadians, and I never heard of Canadian vessels fishing in American waters.

9. The American cod-fishermen call about twice each season on our shores for bait, and each trip they take about twenty-five barrels of bait by purchase from our fishermen. They find it cheaper to buy it than to catch it themselves.

SIMON FERRIS.

The said Simon Ferris was sworn to the truth of this affidavit, at West Arichat, in the county of Richmond, this 2d day of August, A. D. 1877, before me.

E. P. FLYNN,
A Justice of the Peace.

No. 147.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, WILLIAM CRICHTON, of West Arichat, in the county of Richmond, and Province of Nova Scotia, gentleman, make oath and say as follows:

1. I have been engaged in the fishery business for about fifty years up to about 1870, and I have a good acquaintance with the fisheries on our coast up to the present time.

2. I am of opinion that the inshore fisheries are of much greater value than those outside. The herring fishery on our coasts is altogether an inshore fishery. I believe that on our coasts the greater portion of the mackerel are taken inshore.

3. I believe that our inshore boat-fishery is greatly injured by the Americans coming in and baiting the mackerel, and drawing them off shore. I am of opinion, also, that the mackerel fishery will be seriously injured by the practice of seining followed by Americans, if this practice is allowed to be carried on.

4. I am of opinion that the mackerel caught in Canadian waters are, at least, as good as those caught in United States waters, and that any difference of price in favor of American mackerel is owing to the American mackerel being better handled and put up than Canadian mackerel, and put into the market fresher.

5. I consider it a very great advantage to American fishermen to be allowed to land and dry their nets and cure their fish. The transshipment of cargoes is also a great advantage to the American mackerelers, who are by this means enabled to make more trips and catch more fish than they could otherwise do.

6. It is my belief that the American cod-fishermen cannot profitably carry on the cod-fishery without the privilege of procuring bait on the shores of Canada and Newfoundland. It is also a great advantage to them to be allowed to procure ice on our shores to keep their bait fresh. They purchase the greater part of their bait from our fishermen as it is

very much cheaper for them to do so than to spend the time in catching it themselves.

7. The privilege of fishing in American waters is of no practical advantage whatever to Canadians, and I never heard of Canadian vessels fishing in American waters.

8. The catch of our inshore boat fishermen is no doubt much lessened by the Americans fishing within our waters, and I believe that our shore fishermen could carry on their fishery much more successfully if the Americans were excluded from our waters. I believe that it would be better for our fishermen to have the Americans excluded from the three-mile limit even if the American Government should put a duty on our fish.

WILLIAM CRICHTON.

The said William Crichton was sworn to the truth of this affidavit at West Arichat, in the county of Richmond, this — day of August, A. D. 1877, before me.

E. P. FLYNN,
A Justice of the Peace.

No. 148.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, ISAAC LEVESCONTE, of Arichat, in the county of Richmond and Province of Nova Scotia, merchant, make oath and say as follows :

1. I have dealt more or less in fish for thirty-five years of my life, up to about the year 1869.

2. Our herring and mackerel fisheries are mostly carried on inshore, and the inshore fishery of herring and mackerel on our coasts is of far greater value than those fisheries outside the three miles from the shore. The herring fishery is almost altogether inshore, and I believe that the greater portion of the mackerel is caught inshore.

3. The opportunity of transshipping cargoes enjoyed by American fishermen, is of course a great advantage to them. It enables them to make at least one extra trip each season, and by means of this privilege they can of course make a greater number of trips and catch more fish than they could otherwise do.

4. The privilege of procuring bait on the shores of Canada and Newfoundland is very valuable to the American cod-fishermen, and I do not know how they could profitably carry on the deep-sea cod-fishery without this privilege. It is also a great advantage to their cod-fishermen to procure ice on our coasts for the purposes of keeping their bait fresh.

5. I do not believe that the privilege of fishing in American waters is of any value whatever to Canadian fishermen, nor have I ever heard of Canadian vessels fishing in United States waters.

6. There is no doubt whatever that Canadian fishermen would be very much more successful if the Americans were excluded effectually from our inshore waters. I remember that shortly before the Reciprocity Treaty our fishery was pretty effectually protected for one year by British and Provincial Government vessels, and our inshore fishermen did better that year than they had done for some time before, and better than they have ever done since.

ISAAC LEVESCONTE.

The said Isaac Levesconte was sworn to the truth of this affidavit at Arichat, in the county of Richmond, this 4th day of August, A. D. 1877, before me.

E. P. FLYNN,
A Justice of the Peace.

No. 149.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, WILLIAM WENTZEL, of Moose Harbor, in the county of Queen's, fisherman, make oath and say as follows:

1. I have been engaged in the fisheries for about forty years. For the last ten years solely in the inshore fisheries in Queen's County.

2. In my experience, large numbers of American vessels run into this harbor for bait—about two hundred a year; and have done so for about ten years each year. They get ice in this harbor in which to preserve this bait. The Americans say it is a great benefit to them to get this bait and ice, and they could not carry on successfully the Bank fishing without it.

3. ———, of ———, McIntosh, skipper, came in here and baited, and in one fortnight got his trip of halibut, landed the same in Boston, and was back here for his second baiting all in one fortnight, and left here last night on another trip, which is his third trip this season.

WILLIAM WENTZEL.

Sworn to at Moose Harbor, in the county of Queen's, this 16th day of August, A. D. 1877, before me.

S. T. N. SELLOX,
Justice of the Peace.

No. 150.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, PARDON GARDNER, of Port Mouton, in the county of Queen's, fisherman, make oath and say as follows:

1. I have been engaged in the fisheries for thirty-six years, all in the inshore fisheries, and am well acquainted with the inshore fisheries in Queen's County for the said time.

2. During the past twelve years many American vessels have been here for bait and they have got ice here in which to preserve it. During the last six years as many as between twenty to thirty vessels ran here for bait yearly. They run here from March till November. The Americans say it is of great benefit to them to be able to procure bait; without this bait it would be impossible for them to catch fish. These vessels take from eighteen to twenty-five barrels of bait each. The Americans buy this bait in order to save time and expense.

3. The codfish vessels run out and come in again about every two or three weeks, and this they do about three times until they get a full fare on the banks off this coast from fifteen to twenty miles. The Americans take the codfish principally by trawling.

PARDON GARDNER.

Sworn to at Port Mouton, in the county of Queen's, this 17th day of August, A. D. 1877, before me.

S. T. N. SELLON, *J. P.*

No. 151.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, GEORGE MCLEOD, of Brooklyn, in the county of Queen's, master mariner, make oath and say as follows :

1. I have been engaged and connected with the fisheries for the past fifty years, and have a vessel now engaged in fishing on the Labrador coast of seventy-two tons register, and manned by seventeen hands.

2. Eight years ago I was on the Labrador coast with two of my own vessels, each of them was eighty-four tons, and carried seventeen hands each, and in three months we brought home sixteen hundred quintals of codfish. We considered that year a very poor one ; before that they had brought home eleven hundred apiece. We caught most of these fish on the Canadian coast of the Labrador. We took these fish within three miles of the shore. When there I saw several American vessels taking fish and bait, the same as we were. They fished inshore within three miles, in not more than six fathoms of water.

3. About twenty years ago, when fishing on the Labrador coast, I saw upwards of forty American vessels of a large class on the Canadian part of Labrador, at Old Fort Islands, Dog Islands, Bon Experience, Five League ; at these places the Americans took codfish with hook and line, all inshore, within a mile of the shore. At Salmon River I have seen five American sail taking codfish by seining on the shore.

4. The Americans get bait and ice in this harbor, and there are five American vessels here to-day for bait and ice, and it has been the practice of the Americans for the past thirty years to come here for bait, and this I know well, for I have often supplied them with bait. I have seen an American vessel six years ago throw her seine in this harbor on a Sunday for mackerel, and every year for the past thirty they set their nets in this harbor for bait when they had the right to do so, and when they had not the right. When they had not the right, the Americans were more sly, and often set their nets about dark, and took them up early in the morning. Since 1871 they have set them more freely, and with less trouble.

5. The Americans must get their bait on this coast, and they can get this bait nowhere else but on the Nova Scotian and other parts of the Canadian coast. This the Americans themselves say is so, and without this bait and ice they cannot carry on the Bank fishing. They get a supply of ice and bait, and go out and fish, then return for a fresh supply.

6. So many vessels running here for bait and ice interferes with the supply for our bankers.

7. When the Americans get bait and ice in this harbor, they run out about nine miles and fish from nine to twenty miles off this harbor, and fish from Seal Island to the Western Bank ; and this year the coast along has been lined with them.

8. They carry on the cod-fishery on the inside Bank, along the coast of Nova Scotia, by trawling, which I consider a most injurious method of taking fish, as the mother fish are destroyed, and unless stopped will

ruin the fishery; and unless the Americans got their bait inshore they could not carry on this trawling on the Banks along our shore.

GEORGE MCLEOD.

Sworn to at Brooklyn, in the county of Queen's, this 16th day of August, A. D. 1877, before me.

S. T. N. SELLON, *J. P.*

No. 152.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, JOHN LLOYD, of Port Mouton, in the county of Queen's, master mariner, make oath and say as follows:

1. I have been engaged in the fisheries as master for twenty-seven years. I have fished from Cape Sable, along the southern coast of Nova Scotia, around Cape Breton, on the eastern side of New Brunswick, around Prince Edward Island, around the Magdalenes, and on the Labrador coast as far as the north side of Gross Water Bay. I have been engaged a trip every year on the Banks.

2. In my experience the Americans always enjoyed the same privileges as I did myself. In the North Bay the Americans always fished inshore for mackerel, and close into the shore, and it would not pay to go into the North Bay to fish unless they could fish inshore.

3. I have been on the southern coast of Nova Scotia, from Halifax to Cape Negro, for fifteen years now past, and have often told the Americans where they could procure ice and bait. In the harbors along from Halifax to Cape Negro the Americans procure ice and bait wherever they can get it. Without this bait and ice it would be impossible for the Americans to carry on the Bank fishing, and this they have often themselves told me. I to-day told an American schooner that he could get bait in this harbor, and he is anchored here now.

JOHN LLOYD.

Sworn to at Port Mouton, in the county of Queen's, this 17th day of August, A. D. 1877, before me.

S. T. N. SELLON, *J. P.*

No. 153.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, ROBERT J. McDONALD, of Port Jollie, in the county of Queen's, fisherman, maketh oath and say as follows:

1. I have been engaged in the fisheries for twenty years. I have fished along the American coast from near Philadelphia to Gross Water Bay, on the Labrador coast, and am well acquainted with the inshore fisheries in Queen's County.

2. Some years, while fishing in the North Bay, I found the Canadian mackerel was better than American, and some years the American was better.

3. Many Canadian vessels get clams in this harbor for bait, from forty to fifty vessels every year. I always found the clams obtained in this harbor as good as American clams. We used the clams here for taking codfish with hand lines, and still use them for this purpose. We also

use the clams for taking mackerel. In trawling very few clams are used. These vessels take from thirty to fifty barrels of clams to each vessel.

R. J. McDONALD.

Sworn to at Port Jollie, in the county of Queen's, this 18th day of August, A. D. 1877, before me.

S. T. N. SELLON,
Justice of the Peace.

No. 154.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, WILLIAM FREHIL, of Arichat, in the county of Richmond, and Province of Nova Scotia, merchant, make oath and say as follows:

1. I was a practical fisherman for about five years, between 1840 and 1850, and since that period I have been in the fish trade, and have dealt in codfish, herring, and mackerel.

2. In my opinion, the Americans cannot profitably carry on the cod and other deep-sea fisheries without resorting to the shores of Canada or Newfoundland to procure bait. They visit our shores every year for bait, which they purchase from our fishermen. It is a great advantage also to the cod-fishermen to be enabled to procure ice on our shores, as without it they could not keep their bait fresh for more than two or three days; and fresh bait is essential to a profitable prosecution of the cod fishery.

3. I consider the privilege of fishing in American waters to be of no practical advantage whatever to Canadians, and I am not aware that Canadians have ever availed themselves of such privilege.

WILLIAM FREHIL.

The said William Frehil was sworn to the truth of this affidavit at Arichat, in the county of Richmond, this 31st day of July, A. D. 1877, before me.

JOHN FREHIL,
A Justice of the Peace.

No. 155.

In the matter of the Fisheries Commission, at Halifax, under the Treaty of Washington.

I, PHILIP DIGGDON, of Port Medway, in the county of Queen's, and Province of Nova Scotia, but at present of Port Mulgrave, in the county of Guysborough, in said province, master mariner, make oath and say as follows:

1. I have been engaged during the past fifteen years in fishing, principally on the shores of Canada. During ten years of that time I have been fishing in the Gulf of St. Lawrence, during two of which years I fished in American vessels. I have fished for both mackerel and cod.

2. I have been fishing for codfish on the northeast coast of Prince Edward Island this season. The mackerel have come in quite plenty on the shores of Prince Edward Island this year, and close inshore, and I saw several American mackerelers catching them with seines. Some of them seemed to be getting good catches.

3. I am very well acquainted with the cod fishery, and I am of opinion that the Americans could not carry on the cod fishery profitably without resorting to our shores for bait.

4. The system of trawling followed by the American cod fishermen is most destructive to the fishery. A great many fish are uselessly destroyed by this system of fishing.

5. The mackerel fishery on our shores is likely to be greatly injured by the practice of seining used by the United States fishermen. Quantities of small mackerel and herring are destroyed in this way.

6. In 1873 I fished for mackerel in the Gulf of St. Lawrence in an American vessel, from the 20th of July to the 20th of October. We got 500 barrels.

PHILIP DIGGDON.

The said Philip Diggdon was sworn to the truth of this affidavit at Port Mulgrave, in the county of Guysborough, this 30th day of July, A. D. 1877, before me.

JAMES PURCELL,
A Justice of the Peace.

No. 156.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, MICHAEL McDONALD, of Whitehaven, in the county of Guysborough, fisherman, make oath and say as follows :

1. I have been engaged in fishing for thirty years, and during three of these years I fished with the American fishermen in American vessels.

2. We never carried any fresh bait from the United States, but always bought it in the British Provinces. Even if we took it from the United States it would not be fit to use when we got to the fishing grounds.

3. The American fishermen with whom I was engaged fished for mackerel and cod. Trawls were used for the cod-fishing.

4. I have seen as many as three hundred American mackerel-fishing vessels in North Bay in the one season. Each vessel would average fourteen men. They would make from two to four trips per season. They were able to make this number of trips by having the privilege of landing their fares of fish and getting refitted. Without this privilege they could not make more than from one to two trips per season ; oftener one than two. I have known one vessel to catch two thousand barrels of mackerel per season. It would be considered a very poor season if each vessel did not get 700 or 800 barrels.

5. I never knew of any American vessels landing for the benefit of the inhabitants. They always do it for their own advantage, and not that of the people with whom they deal. They buy and trade because they save time ; buy cheaper than they can in their own markets, and be thus able to fish longer and watch the best chances. The American vessels by buying ice in Canada save one-fifth in quantity, and get the ice from one to two dollars cheaper per ton than they can in the United States. The way the one-fifth in quantity is saved is, that if the ice is got in the United States, one-fifth of it would melt during the passage down.

6. If the Americans could not land, &c., and enjoy the privileges

granted by the Washington Treaty, they could not get one-fourth of the fish they now do. In fact I do not think they would fish at all in our waters without these rights.

his
MICHAEL + McDONALD.
mark.

Sworn to at Whitehaven, in the county of Guysborough, this 24th day of July, A. D. 1877, before me, first having been read and explained.

JAMES A. TORY,

J. P. for the County of Guysborough.

No. 157.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, GEORGE MURPHY, of Port Hood, in the county of Inverness, fisherman, make oath and say as follows:

1. I have been engaged in the occupation of fishing in these parts for fifteen years past, and have taken some trips in American fishing-vessels on this coast, and have fished in a fleet of American vessels numbering between 100 and 200 sail in the gulf and around the coast of Nova Scotia and Cape Breton, Sydney, Louisburg, and the Magdalen Islands, and have had large opportunities of judging of the general character of the fishing business on this coast.

2. I have seen as high as five hundred American vessels in this harbor of Port Hood, and have known as many as seven hundred American vessels fishing in the gulf in one season. These vessels average about 60 or 70 tons burden, and have a crew of about fifteen men; but I have known many American vessels of larger tonnage, and sometimes with a crew of twenty men. The average cargo of mackerel was three hundred barrels each vessel, and of codfish generally about five or six hundred quintals. They average about three trips per season. Mackerel brought about \$15 per barrel, and codfish from \$4 to \$5 per quintal. This was when I was working with the American fleet. I cannot speak positively as to numbers for the last year or two.

3. The cod fishery about here is about as good as usual now; not aware of any falling off in the quantity or catch. The mackerel fishery has fallen off somewhat during the past two or three years, but this has only been in bite, not in numbers. There are as many mackerel in our waters now as ever there were. The only reason I know of for the falling off in the catch of mackerel lately is the use of the seines by the American fishermen, and the practice of throwing bait overboard, which has made the mackerel less sharp to bite. If our grounds are properly taken care of I know no reason why our mackerel grounds should not be as productive during the next ten years as ever before.

4. I have seen American fishermen within the last three years catching mackerel in these waters with purse seines, and they would sometimes take as many as one thousand barrels at one haul. They could only save half of these, and had to let the rest go, some being killed in the operation. This kind of fishing is very destructive to our fishing grounds. I never knew a Canadian fisherman to use purse seines, and most of the mackerel caught by them are taken in boats.

5. I have seen American fishermen since the Washington Treaty catching fish in this harbor within one mile of the shore, and less. During the past two or three years the best fishing has been within three miles of the shore, and most fish are taken within that limit. When on

board American fishing-vessels we took nearly all the cargo of mackerel inshore.

6. The Americans catch bait within three miles of the shore—both herring and squid. All bait is caught inshore. They chiefly buy now, and their reason for this is, because it pays them better than catching it. Our fishermen catch bait better than the Americans. To my knowledge, as many as fifty or sixty American vessels have baited here this season, in this vicinity.

7. Our herring fisheries are very valuable to Canadian fishermen. It is the most profitable business we have now. I have known our own fishermen to take from 150 to 200 barrels of herring in two days, in one boat. If the American fishermen should take hold of this herring-fishing and begin to seine herring, it would be a great injury to us and a loss to our business.

8. The main body of the mackerel feed around our shores in the shoal water. Their food is small fish, which only frequent the inshores. In the autumn season the mackerel particularly keep close inshore.

9. It is a great advantage for American fishermen to be allowed to be allowed to land and dry their nets and cure their fish; and also to transship their cargoes. They are in the habit of doing this constantly since the Treaty of Washington, and their fishermen always consider it an advantage to them as enabling them to refit for a new voyage without going back to their home ports. They can thus catch more fish and make more trips during the season.

10. The privilege of being able to catch or procure bait in our waters and ports is one of the most important advantages which the Americans derive from the Treaty of Washington. This is so great an advantage that if the Americans were not allowed to procure bait from Canadians, or catch it in Canadian waters, I believe they would have to abandon their cod-fishing in the gulf and around our coast altogether. The bait which they use will only last about three weeks when preserved on ice, and it would be impossible for Americans to carry on the cod-fishing business to any profitable extent if they had to be dependent on American ports and waters for all the bait they used.

11. The American fishermen also find it a great advantage to them to procure ice from our ports. It is in this way they are able to preserve their bait, otherwise they would have to salt it, which is considered a great injury to the bait.

12. I know of no advantage whatever which Canadian fishermen derive from the privilege of fishing in American waters. Americans say that our fishing-grounds are their best and most valuable. I never heard of any Canadian vessels going into American waters to fish, and see no likelihood of any doing so.

13. I could not undertake to name any certain money value to each American vessel of the privileges which they now have of fishing and getting supplies in our waters; but I don't see how they could carry on their fisheries in these parts with any kind of profit or success if they did not enjoy them. They would not be able to take as many trips, nor could they get on with the same ease, and their cod-fishing would be next thing to ruined if they could not get bait here.

14. I believe if there were no American fishermen in our waters, and our own fishermen had exclusive use of British-American waters, that we would be able to catch more fish and derive greater profits, and that our fishing grounds would be better preserved. Canadian fishermen carry on their business with greater care than Americans, and instead of throwing the offal overboard to glut the fish, they carry it to the shore.

GEORGE MURPHY.

Sworn to at Port Hood, in the county of Inverness, this 20th day of July, A. D. 1877, before me.

JOHN McKAY, J. P.

No. 158.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, JAMES PHELAN, of Arichat, in the county of Richmond, and Province of Nova Scotia, merchant, make oath and say as follows:

1. During the past twelve years I have been employed or engaged in the fish-trade in this place, and I have a good general knowledge of the fisheries on our coasts.

2. I believe that our inshore fisheries within three miles of the shore are of much greater value than those outside that distance, and almost all the herring and a greater part of the mackerel are caught within that distance.

3. The opportunity of transshipping cargoes enjoyed by American fishermen since the Treaty of Washington of 1871 is a great advantage to them, as by means of this they save about fifteen days on every trip to the fishing grounds. When mackerel are plenty, a vessel could get a fare of them in little more than the time it would take to go to her home port in the United States and return. This privilege of course enables them to make more trips and catch more fish than they otherwise could.

4. I believe that it would be impossible for the American cod-fishermen to prosecute their calling successfully or profitably without obtaining bait on the shores of Canada or Newfoundland, and to keep this bait fresh it is necessary for them also to procure ice on our coasts. Every season American cod-fishing vessels visit this island (Isle Madame) for bait and ice in great numbers. The Americans purchase most of the bait they obtain from our fishermen, as it is cheaper for them to do so than to consume part of the fishing-season in catching it themselves.

5. The privilege of fishing in American waters is of no advantage whatever to Canadians, and no Canadian vessel has, to my knowledge, availed itself of such privilege.

6. I believe that the practice of trawling followed by the American cod-fishermen is injurious to the fishery, and that our fishermen could carry on the fishery around our coast more successfully if the Americans were excluded from our waters.

JAMES PHELAN.

The said James Phelan was sworn to the truth of this affidavit at Arichat, in the county of Richmond, on the 3d day of August, A. D. 1877, before me.

E. P. FLYNN,
A Justice of the Peace.

No. 159.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, H. ROBERTSON, of Griffin's Cove, county of Gaspé, Province of Quebec, fisherman, make oath and say as follows:

Am acquainted with all the fisheries carried on on the coast of Gaspé for 30 years past.

1. During the Reciprocity Treaty, and before, that is from 1845 to 1866, the Americans have made an extensive fishery of mackerel at Griffin's and neighboring coves. About 100 American vessels have visited our shores for mackerel yearly. I have seen the American fishermen from the shore fishing. I have been on board their vessels whilst they were catching mackerel with hand-lines, and always inshore.

2. These vessels average 65 tons, having about 15 men for a crew, and they have always made good voyages, getting all their load inshore, amounting to 400 barrels.

3. The Americans catch mackerel with hand lines and seines, principally with the former.

4. The Americans have always fished for mackerel inshore on this coast, and very close to the shore.

5. The inshore fishery is of much greater value than the outside. All the fish are taken inshore here.

6. The Americans have often come amongst our boats whilst we were fishing for mackerel, and by throwing bait draw the fish outside, thereby causing us great damage. They have done that to me nearly every year during the period mentioned above. They often threatened to stone us if we went near their vessels to fish.

7. Since 1871 the codfish have increased considerably, owing to the retirement of Americans from our waters.

8. The principal food of mackerel is lance and sea-fleas. This is what keeps the mackerel inshore on our coast.

9. Fishing by Americans in our waters hinders the fishing operations of our Canadian fishermen to a great extent, because we cannot compete with them.

his
HILAIRE + ROBERTSON.
mark.

Witness:

A. D. JOHNSTONE.

Sworn to the best of his knowledge, information, and belief, at Griffin's Cove, county of Gaspé, Province of Quebec, Dominion of Canada, this 28th day of July, A. D. 1877, before me.

N. LAVOIE,
Justice of the Peace, Province of Quebec.

No. 160.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, DONALD WEST, of Grand Greve, county of Gaspé, Province of Quebec, fisherman, make oath and say as follows:

Am acquainted with the fisheries on the coast of the Gulf of St. Lawrence, having practiced them for forty years.

1. In the Bay of Gaspé and neighboring shores mackerel-fishing by the Americans has been practiced on an extensive scale, especially during the period extending from 1845 to 1866.

2. During the period just mentioned over 100 American schooners have visited the Bay of Gaspé yearly for mackerel-fishing. The mackerel at that time were very abundant in our waters, and each of the vessels that have been here during that time for mackerel fishing have made good voyages yearly. I have seen them loading, and have heard the Americans say so themselves, and I have heard them also say that

most of these schooners were making two trips yearly of 400 barrels of mackerel. These schooners were about 60 tons each on an average, with a crew of 16 men. I have seen them fishing and catching mackerel. I have seen them also at Cape Rozier fishing mackerel inshore and very near the rocks. I have seen them also seining many times in the Bay of Gaspé, at Sandy Beach. The seines were drawn from the shore; in fact all the mackerel that have been caught by the American schooners that I have seen have been taken inshore.

3. The cod fishery is about the same now as it was formerly.

4. The mackerel are taken by means of hand-lines and seines by the Americans. I have seen them fishing with hand-lines inshore, and I have seen them seining with hauling-seines from the shore, and with purse seines in deep water, but inside three miles.

5. The practice of throwing fish-offal overboard by the Americans is a great injury to the fisheries, because it poisons the water, drives away the large fish, and kills the eggs.

6. The inshore fishery is of much greater value than the outside. All the fish are caught inshore.

7. It is the common practice of the Americans to come in among the boats and by throwing bait entice the mackerel away with them, so that we could not take mackerel without going alongside of their vessels, which they did not like at all.

8. Seining, as practiced by the Americans, is injurious to the fisheries, because it takes large and small fish; all the small fish are thrown away and left to perish on the strand.

9. During the last years of the Reciprocity Treaty nearly all the Americans were supplied with both the purse and hauling seines.

10. The fisheries have increased greatly since 1871, that is the cod fishery, and up to date the mackerel-fishing is better than last year, and the increase in the cod fishery is due, in my opinion, to the fact that the Americans have retired.

11. Mackerel feed inshore on lance, shrimp, and other small fish.

12. It is a great advantage to the Americans to be able to transship cargoes, because it enables them to keep on the fishing-grounds and to double their fares.

13. The Americans could not profitably carry on the cod and halibut fisheries if they were not allowed to come in our inshores either to catch or buy bait.

14. The privilege of transshipping cargoes to the Americans is worth a load, and the privilege of getting bait in our inshores for their cod and halibut fishery is worth these fisheries.

15. Fishing by Americans in our waters hinders the fishing operations of our fishermen to a great extent, because we cannot compete with them, and they take all our fish.

DONALD WEST.

Sworn to the best of his knowledge, information, and belief, at Grand Greve, county of Gaspé, Province of Quebec, Dominion of Canada, this 28th day of July, A. D. 1877, before me.

N. LAVOIE,

Justice of the Peace, Province of Quebec.

No. 161.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, MICHAEL MCINNIS, of Port Daniel, county of Bonaventure, Province of Quebec, farmer and fisherman and merchant, make oath and say as follows:

1. Am acquainted with all the fisheries from Point Macquereau to Paspebiac; I have followed these fisheries for 15 years.

2. Am thirty-one years of age, and since I can remember, the mackerel-fishing by Americans has been carried on on an extensive scale on this shore.

3. To the best of my knowledge, 100 schooners have visited these shores (I always speak of between Point Macquereau and Paspebiac) yearly. The average tonnage of these vessels is about 70 tons, each vessel having from 10 to 15 men for a crew. I am acquainted with the mackerel fishery only.

4. I don't remember of any of these vessels ever missing their voyage.

5. I have been many times on board of American fishing-vessels fishing on this shore, and have heard them say many times that most of the schooners have made two trips in a season.

6. The herring fishery is the same as it has been for the past 15 years, and codfish also.

7. Mackerel are taken by the Americans with hand-lines and seines.

8. The practice of throwing fish-offals is injurious to the fisheries, because it gluts the large fish, and kills the small ones.

9. Every year since I can remember, till 1870, I have seen the Americans fishing inshore often at our net moorings and catching mackerel as hard as they could with hand-lines.

10. The inshore fishery is of much greater value than the outside.

11. All the bait, herring, smelt, caplin, and lance are caught inshore. Two-thirds of the codfish and two-thirds of the mackerel have been caught inshore.

12. I have seen the Americans many times come among our boats, and entice the mackerel away by throwing bait. They have done the same to me many times, thereby causing me great damage, because there were no more fish left to get. They do this whenever they get the chance.

13. I have seen the Americans from my boat and from the shore many times, going around looking for a place to throw their seines.

14. I have seen many times the American trawlers come in Port Daniel for bait.

15. About 20 different trawlers come here every season for their bait. I heard the Americans say often that they require 60 barrels of bait (herring) to make their voyage.

16. The fishery has not diminished since 1871.

17. The Americans take herring here for bait only.

18. On questioning the Americans on board their own vessels, they frequently told me that our mackerel was of greater value than their own.

19. Mackerel breed and feed inshore. Our inshores are one of their breeding-grounds.

20. I have seen the Americans frequently ever since I can remember land to dry and repair their nets, and it is a great advantage to them.

21. I consider it a great advantage to Americans to be able to trans-

ship their cargoes, because it enables them to keep on the fishing-grounds, and to make an extra voyage.

22. It is also a great advantage to them to be able to procure bait in our inshores.

23. The Americans could not carry on the cod and halibut fisheries without the privilege of resorting to our inshores to procure bait.

24. It is a great advantage to the American fishermen to be able to land to procure ice and snow to preserve their bait.

25. It is of no advantage to us to be able to fish in American waters. I never knew of any of our vessels ever going there to fish.

26. The privilege of transshipping cargoes is of great advantage to the Americans, because they can double their fares; in fact, it is worth a load to them. And the privilege to trawlers to get bait in our inshores is worth their fisheries.

27. The privilege granted to Americans to fish in our waters injures us to a great extent by bringing us in competition with men who are a great deal better equipped to take fish than we are, and because this extra number of men destroys fish. I have often heard the Americans say that they couldn't carry on the fisheries in our waters without catching bait here.

MICHAEL McINNIS.

Sworn to the best of his knowledge, information, and belief, at Port Daniel, in the county of Bonaventure, Province of Quebec, this the 23d day of July, A. D. 1877, before me.

N. LAVOIE,

Justice of the Peace, Province of Quebec.

No. 162.

NEWFOUNDLAND, *to wit*:

The honorable JAMES JOHNSTONE ROGERSON, of St. John's, receiver-general and collector of customs for the Island of Newfoundland, maketh oath and saith that the annexed statement, marked A, is a correct and true statement of the matter and things to which it refers, the same having been compiled from the customs returns and other authentic records of the said Island of Newfoundland.

JAMES J. ROGERSON,

Receiver-General and Customs Collector.

Sworn before me, at Saint John's, aforesaid, this eighth day of June, A. D. 1877.

J. O. FRASER,

Commissioner of Affidavits.

STATEMENT A. (Referred to in annexed affidavit.)

Statement of the Quantities and Values of the undermentioned articles the produce of the Fisheries, exported from the Colony of Newfoundland to the United States of America, during the three years ending 31st December, 1876, showing the average Quantities and Values Exported during that period, and the Rates and Amounts of Duties by the United States Tariff, and which are now exempt from the duties by the Washington Treaty.

ARTICLES EXPORTED.	1874.		1875.		1876.		Average of three years.		Rate of Duty by United States Tariff.	Amount of Duties.
	Quantities.	Value.	Quantities.	Value.	Quantities.	Value.	Quantities.	Value.		
Dry Codfish..... cwt.	18,004	\$85,489 00	10,008	\$50,177 00	4,905	\$27,958 00	1,298,900 lbs.	\$54,541 00	50 cts. per 100 lbs.	\$6,144 50
Cured do..... "	300	510 00	.....	.....	225	450 00	350 bbls.	320 00	\$1 50 per bbl.....	525 00
Salmon..... tierces.	1,643	24,618 00	1,931	27,034 00	1,062	16,992 00	2,318 bbls.	22,881 00	\$3 per tierce.....	6,954 00
Herring, pickled..... "	18,401	55,203 00	30,758	92,274 00	28,875	96,047 00	26,011 bbls.	81,374 00	\$1 per bbl.....	26,011 00
Tongues, Sounds..... "	54	108 00	82	164 00	40	80 00	6,570 lbs.	117 00	50 cts. per 100 lbs.	32 85
H'd but..... cwt.	922	1,644 00	147	294 00	190	380 00	43,269 lbs.	772 00	50 cts. per 100 lbs.	216 34
Trout..... bbls.	1,478	11,824 00	1,353	8,118 00	435	3,332 00	1,089 bbls.	7,758 00	\$1 50 per bbl.....	1,633 50
Cod Roes..... "	.....	.....	76	229 00	73	292 00	9,353 lbs.	174 00	50 cts. per 100 lbs.	49 66
Cod Oil..... tons.	477	76,410 00	36	6,292 00	24	3,840 00	.....	28,844 00	30 p. c. on value..	5,768 80
Refined Cod Liver Oil..... "	83	19,123 00	15	3,264 00	18	4,008 00	39	8,998 00	40 p. c. on value..	3,599 20
Blubber..... "	1	16 00	4	68 00	.....	.....	1½	28 00	30 p. c. on value..	5 60
										50,940 45

No. 163.

ISAAC MERCER, aged 31 years, residing at Bay Roberts, Conception Bay, Newfoundland, fisherman, maketh oath and saith :

I am acquainted with the fisheries of this country, by having followed the same for eighteen years. I saw three United States fishing schooners in Spaniard's Bay and two in this harbor last year. I heard of a large number of these vessels being in this bay last year, but I only saw five as above. They came to the bay for fresh bait; the schooners seen by me came for fresh squids, and, as I believe, the other United States vessels that visited this neighborhood last year all came for fresh bait. They came in from the Banks, where they had been fishing, for fresh bait. They purchased bait from our people and jigged squids jointly with our people to supply their wants. Newfoundland fishermen catch codfish generally within a mile or two of the shore. The Newfoundland fishery (cod) is an inshore fishery, as is the bait fishery, including caplin, herring, and squids. I never knew of a Newfoundland vessel fishing on any of the shores or coasts of the United States of America.

I believe the supply of bait to United States fishermen will act injuriously upon the supply for local fishermen, and that it will certainly decrease the supply for the latter.

I believe that the operations of United States fishermen on the banks off our coast, well supplied with fresh bait, tends to reduce the catch of codfish by local fishermen, and that the short catch last year was owing to United States fishermen as aforesaid. The catch of local fishermen in this neighborhood last year was not over one-half what it used to be on the average before 1874.

ISAAC MERCER.

Sworn before at Bay Roberts, Conception Bay, Newfoundland, this 26th April, 1877.

J. O. FRASER,
Commissioner of Affidavits.

No. 164.

SAMUEL FIANDER, of Coomb's Cove, in Fortune Bay, maketh oath and saith: Is 44 years of age, and a fisherman. I have become acquainted with the fisheries of Newfoundland from being engaged in their prosecution since I was twelve years of age.

I have observed a large number of American fishermen in Fortune Bay during the present year, about fifty vessels. The Grace L. Fears, commanded by a Captain McDonald, was one of such vessels; the Edmund Parsons, commanded by Captain Saunders, was another of such vessels, both hailing from Gloucester. I did not particularly remark the names of the other vessels referred to. The two vessels named were about 70 tons each, and the others first named were from about 70 to about 100 tons. These vessels came to buy bait from British fishermen, and they did purchase bait as aforesaid.

I have sold bait to American fishing-vessels. I have baited eight such vessels this present year—about fifty barrels each vessel—the rate paid for baiting being from twenty to thirty dollars for each vessel.

The Newfoundland fishery is an inshore fishery. The caplin and herrings used for bait are all taken inshore. Squids occasionally are taken a mile from the coasts, but generally they are taken a few hundred yards from the shore.

I do not know of any Newfoundland fishing-vessel taking fish or try-

ing to take fish on any of the coasts of the United States of America. About twenty-five sail of American vessels have frequented Fortune Bay for the purchase of frozen herrings; they do not catch for themselves, finding it cheaper to buy from Newfoundland fishermen.

Formerly American fishermen used to catch large quantities of halibut about Pass Island in this bay. Captain McDonald got a load there. A British war ship, the *Racoon*, stopped their fishing for halibut, and they have not since renewed it. American fishermen frequent this neighborhood regularly in passing to and fro. Newfoundland fishermen did catch a large quantity of halibut about Pass Island.

I am aware that the supply of bait to American fishermen acts injuriously upon Newfoundland by attracting fish outside and preventing it coming in toward the shore.

I think the short catch of fish on the southwest coast of Newfoundland is caused by the Americans fishing on the outer Banks.

This neighborhood offers great facilities for the preservation of ice, which I am aware has been largely supplied to American fishermen for the preservation of bait purchased from Newfoundland fishermen as aforesaid.

his
SAMUEL + FIANDER.
mark.

Sworn before me, at Harbor Breton, this 3d day November, 1876.

J. O. FRASER,
Commissioner of Affidavits.

No. 165.

GEORGE BISHOP, aged 50 years, trader, residing at Burin, Newfoundland, maketh oath and saith:

I have become acquainted with the fisheries of Newfoundland by over thirty years' experience.

I have observed United States fishing vessels in this neighborhood. The past season I have observed about twenty of these vessels. I can only name a few: *Gleaner*, Capt. Lyons.

These vessels came to this neighborhood to purchase fresh bait and ice, which they procured by purchasing from our people. The captain of the *Gleaner* purchased bait to the value of \$20.

Newfoundland fishermen catch fish, generally, within two miles of the shore, there being exceptional instances only when codfish is taken from six to nine miles off the coasts.

The Newfoundland fishery is an inshore fishery. The caplin, herring, and squid fisheries used for bait are altogether inshore fisheries.

I never heard of a Newfoundland fishing vessel having prosecuted any fishery on any of the coasts of the United States of America.

American fishermen have not, to my knowledge, sold any small fish or other fishery produce in this neighborhood. American vessels have fished for codfish on our grounds off Cape Saint Mary's. American masters partially refit their vessels occasionally at this port, but have not here transshipped their cargoes.

I undoubtedly think that the supply of bait to United States fishermen decreases the supply of bait to our local fishermen. They employ our people to sweep the coves, who have done so, leaving no bait after them.

I do think that the presence of the large number of United States vessels fishing with fresh bait on the Banks off our coasts greatly

interferes with and reduces the local catch of codfish. I am of opinion that the scarcity of codfish the past summer along our south and west coasts is attributable to the presence of the French and of the Americans fishing on the outer Banks; but chiefly to the United States fishermen, who are well supplied with fresh bait, whereas French fishermen principally use salted bait.

The catch of codfish the last season by fishermen of this neighborhood will only come to twenty quintals per man; in former years the average was from eighty to ninety quintals per man.

The number of craft of this harbor engaged each year in supplying bait to the French is about thirty, and these vessels take to St. Peter's from this per annum 1,000 hogsheads caplin, valued at 10,000 francs, and from Fortune Bay; 15,000 barrels herring, valued 40,000 francs of the latter about seven thousand barrels would be thrown away, being unsalable at St Pierre.

There is one ice-house at this harbor where ice is preserved for sale to United States fishermen, principally for the preservation of fresh bait. The quantity of ice sold to United States fishermen at this harbor per last summer sales is — tons.

GEORGE BISHOP.

Sworn before me, at Burin, this sixth day of December, A. D. 1875.

I. O. FRASER,
Commissioner of Affidavits.

No. 166.

GEORGE AMBROSE HICKMAN, aged 33 years, master mariner and planter, residing at Grand Bank, Newfoundland, maketh oath and saith:

I have become acquainted with the Newfoundland fisheries by following the same for twenty years.

I have observed a large number of United States fishing vessels in this neighborhood from time to time; this summer there have been over three hundred such vessels in this bay. These vessels came to purchase bait, and they did so purchase fresh herrings for bait.

I have sold fresh bait to United States fishing vessels; the number baited by me has been from twelve to fifteen vessels. Each vessel took from forty to sixty barrels herring; the price paid for such herrings at and in the neighborhood of Grand Bank has been about sixty cents per barrel. I have seen United States vessels fishing off Pass Island, inside of the headlands; this I have seen frequently, and at such times they always fished within three miles of the headlands, from Cape Labune to Point May.

Newfoundland fishermen catch codfish within three miles of the shore except in exceptional instances, when they go off certain special seasons to six to nine miles off the coasts, but generally the fishing is prosecuted along shore. The caplin, herring, and squid fisheries, used for bait, are taken near the shore, and are always inshore fisheries, never being taken at a greater distance than half a mile from the coasts. I never heard of a Newfoundland vessel prosecuting any fishing voyage on the coasts of the United States of America. I have no knowledge of United States fishermen selling codfish or other fishery produce in this neighborhood. From thirty to forty American vessels frequent Fortune Bay in winter for herrings for freezing, which they always purchase from Newfoundland fishermen. Their average cargo of such herrings has been about six hundred barrels.

I know of United States vessels having transshipped cargo in this bay from one vessel to another, so as to make up a load for one vessel dispatched to the United States. The practice in force of seining herrings for bait for United States vessels decreases the supply of bait to local fishermen. Instances are known of heaps of herrings that have perished from close "barring," measuring fifteen feet deep; this has been ascertained by measuring with poles.

The presence of the large number of the United States vessels fishing on the Banks off our coasts, using fresh bait, greatly reduces the catch of our local fishermen, and I can attribute the short catch of codfish the past summer to no other cause. Codfish will not pass fresh bait, and we all know that the Banks off these coasts are well manned by American fishermen. The withdrawal of a large number of American vessels from the Banks this fall is perceptible by an increased catch of fish along our coasts on the occasion of such withdrawal. About five thousand barrels herrings averaging forty thousand francs, and ten thousand hhd. averaging sixty thousand francs, will be a fair estimate of the bait sold at St. Pierre annually by fishermen belonging to Grand Bank; in addition to which over ten thousand barrels herrings are annually thrown away, being unsalable.

There is an ice-house at Grand Bank where ice is kept for sale to United States vessels for the preservation of fresh bait, which was used for that purpose last summer.

GEORGE A. HICKMAN.

Sworn before me, at Grand Bank, this 25th day of November, 1876.

J. O. FRASER,
Commissioner of Affidavits.

No. 167.

JOHN LAKE, sr., aged 60 years, planter, residing at Fortune, Newfoundland, maketh oath and saith, that—

I am acquainted with the fisheries of Newfoundland, by following the same since I was fourteen years of age. I have seen a large number of United States fishing-vessels in this neighborhood; in June and July from six to fourteen daily passed up the bay. These vessels came to purchase fresh bait, which they procured from our fishermen; the chief supply being from fishermen residing at Pelloram, St. Jacques, Bay de North, in Fortune Bay.

United States fishing-vessels two years ago fished about Brunette; two years ago they were fishing between Danjy Cove and Green Island, when one of them nearly lost their dory by a heavy sea, running for shore.

Before ruined by American fishermen, our people used to catch large quantities of halibut off Pass Island; now nothing can be done in this fishery.

Newfoundland fishermen, as a rule, catch their fish within two miles of the shore. The herring, caplin, and squid fisheries used for bait in Newfoundland inshore fisheries, generally taken along our coves and harbors, squid sometimes at the capes. I never heard of a Newfoundland vessel having engaged on a fishing-voyage on any of the coasts of the United States of America.

American fishermen have not sold any small fish in this immediate neighborhood; they have done so at Belloram and St. Jacques, in Fortune Bay, and elsewhere, but I cannot give particulars.

About three hundred sail of United States fishing-vessels frequented this bay this spring and summer for fresh bait.

From thirty to sixty United States vessels frequent Fortune Bay in winter for the purchase of fresh herrings which they freeze and take on to Cape Ann and Boston and elsewhere in United States; the price obtained for these frozen herrings in the markets of the United States varies from one to fifteen dollars. The herring taken in winter by these American vessels are purchased from our people, the price paid being one dollar nominally, but the measure exacted reduces the price to from sixty to seventy-five cents per barrel. In June and July the seining of large quantities of herrings shortens the supply of bait to local fishermen. In June I knew of twenty seines barring herrings for United States fishermen; some of which seines inclosed two thousand barrels herrings, kept inclosed till United States vessels came along to purchase, and sometimes thus retained for two months, at the end of which time the seines are taken up and the herrings alive set free; in all such cases there is a large destruction of herrings, and a ruinous interference with the bait supply of our local fishermen.

I am of decided opinion that the presence of the large number of United States vessels fishing on the Banks off our coasts using fresh bait greatly reduces the catch of codfish by our local fishermen, and that the short catch the past season along our southwest coasts is owing to the operations of United States fishermen on the outer banks. Previous to the last two years the fishermen of this harbor, average from eighty quintals upwards; the past season the average will not exceed eighteen quintals, but will be nearer fifteen quintals per man. The quantity of bait annually sent to St. Pierre from Fortune will be about, I calculate to be, 5,000 barrels herrings vauled at 40,000 francs, 10,000 barrels caplin valued at 60,000 francs.

About ten thousand barrels herring are annually thrown away, being unsalable at St. Pierre. There are no ice-houses at Fortune Harbor wherein ice is preserved.

JOHN LAKE, SR.

Sworn before me at Fortune, N. F., this 27th November, 1876.

J. O. FRASER,

Commissioner of Affidavits.

No. 168.

GEORGE SIMMS, aged 49 years, stipendiary magistrate and preventive officer, residing at Grand Bank, N. F., maketh oath and saith that—

I have had thirty years' experience of the fisheries of Newfoundland, having at 19 years of age carried on the fishery, and subsequently being with scarcely any intermission connected therewith. I have observed great numbers of United States fishing-vessels in this neighborhood, especially during the past season. The number would be from two to three hundred at different times frequenting Fortune Bay for the supply of fresh bait for the cod-fishery, chiefly on the Grand Banks of Newfoundland. I can only enumerate a few of such vessels, as they keep away from customs officers to evade the local laws of the country, particularly those referring to light-dues, which all Newfoundland vessels

have to pay. The six United States fishing-vessels that paid light-dues at my office the past two years, are the following:

	Tons.	Master.	Where he longs.
Ed. Drtver	77	Francis Wheeler.....	Gloucester.
Lizzie B. Knight	67	Wm. E. Morrissey.....	do.
Howard.....	74	Collins.....	do.
Frank A. Williams.....	66	Hugh H. Lyons.....	do.
Proctor Brothers.....	77	Edw. Trevey.....	do.
Elisha Crowell.....	67	Wm. N. Wills.....	do.

These vessels purchase fresh bait from our fishermen in Fortune Bay. Newfoundland fishermen catch codfish from half a mile to four miles from the shore, but principally within three miles along shore. The Newfoundland fishery is an inshore fishery.

The caplin, herring, and squid fisheries for bait are shoal-water fisheries, and caplin and herrings never taken more than three miles from the shore, and squids rarely taken that distance off.

I know of no Newfoundland vessel ever having prosecuted the fishery on any of the coasts of the United States of America.

From thirty to fifty American vessels frequent Fortune Bay in winter for the purchase of fresh herring to be frozen. They do not catch for themselves, but purchase from our fishermen. The average quantity taken by them yearly has been six hundred barrels per vessel. Sometimes a few of these vessels take salted herrings, when they take a much larger quantity.

I have seen United States fishing-vessels and crews catching codfish on the Newfoundland inshore fishing-grounds, but cannot state the number, having made no records.

I am not aware whether United States vessels refit in this bay, none of them having transhipped cargo in any Newfoundland port.

I consider the supply of fresh bait to United States fishermen to be injurious to our local fishermen.

I consider that the presence of the large number of United States fishermen fishing on the Banks off our coast with fresh bait injures the local catch by reducing it greatly.

I think the scarcity of fish along our southwest coast this summer has been caused by the increase in the number of American fishermen on the Banks off our coast.

United States vessels frequently foul nets along the coast, tearing them away and frequently carrying such nets out to sea, to the great loss of Newfoundland fishermen. In one instance last spring an American vessel thus destroyed five herring nets, without compensation to their owners, vessel being unknown. I have reason to know that very considerable damage is done in this way by United States fishing vessels to the fishermen of Newfoundland, and especially to those of this bay.

GEORGE SIMMS,

J. P., Stipendiary Magistrate, Grand Bank.

Sworn before me at Grand Bank, N. F., this 24th November, 1876.

J. O. FRASER,

Commissioner of Affidavits.

No. 169.

HENRY T. HOLMAN, aged 40 years, residing at Harbor Breton, manager of the trading business there, carried on under the name of Newman & Co., maketh oath and saith :

I have had twenty-four years' experience of the fisheries of Newfoundland. I have observed several American fishing vessels in this harbor every summer, and know of a large number (over fifty) that frequent Fortune Bay for herring bait, each vessel coming to the land once a fortnight for fresh bait, which they purchase principally from seine owners. The captain and crews of American vessels, with the aid of the owner of the seine, do all the work of shooting and emptying such seines.

I have known American vessels fishing about three or four miles off Pass Island, particularly about May, when they fished for halibut, catching a quantity of codfish also, all on bultows. The quantity and value, as nearly as I could learn, I have furnished to Mr. Hayward, of H. M. customs, St. John's. United States fishing-vessels do not now fish within three miles of our shores, as they find fish more plentiful farther off. When on the Banks, with fresh bait, they make good catches. Newfoundland fishermen catch fish from inshore to three miles off; exceptionally, they go to seven and nine miles off. Newfoundland fishery is an inshore fishery. Caplin and herrings used for bait are inshore fisheries; squids are sometimes taken farther off. I never heard of caplin or herrings being taken outside three miles of our shores. I never heard of a Newfoundland vessel prosecuting a fishing voyage on any of the coasts of the United States of America.

Some thirty or forty American vessels frequent Fortune Bay in winter for the purchase of fresh herrings, which they freeze before shipping. In some instances, American vessels ship salted herrings.

Frozen cargoes consist of from six to eight hundred barrels per vessel, and salt from twelve to twenty hundred barrels.

I do not know of Americans now fishing for turbot in these waters.

American vessels purchase ice in this neighborhood for the preservation of fresh bait, for which payment is made in small codfish and in cash. I only know of American vessels having transhipped cargo in this bay from one American vessel to another American vessel. I think the supply of fresh herrings in summer to United States fishermen decreases the supply to our local fishermen. This is particularly the case when large quantities are "barred" in seines, which prevents herrings playing about the adjacent coves and harbors, preventing herrings netting, as they otherwise would do.

I am of opinion that the presence of the large number of United States fishing vessels on the Banks off our coasts using fresh bait has the effect of reducing the catch by our local fishermen, and is acting ruinously upon our cod-fishery.

I am also of opinion that the scarcity of codfish this year along our southwest coast has been caused by the Americans fishing on the outer Banks, as aforesaid.

By a careful comparison of the fish per man previous to and since 1874, I find, by reference to the books of the firm under my management, that whereas before 1874 the catch per man was equal to an average of seventy-nine quintals per man, since 1874 it has decreased to an average of thirty-four quintals per man.

The difference is equal to forty-five quintals, or two hundred and

twenty-five dollars, for each fisherman in the bay, there being about fifteen hundred fishermen in the district of Fortune Bay and Grand Banks.

The estimate of fresh herrings sold to the French at St. Peter's in April, each year, amounts to fifty thousand barrels, the price paid being from one to sixteen francs; an average of about ten francs per barrel would be fair. In some years twice the quantity of herrings sold are destroyed, being thrown away as useless.

HENRY T. HOLMAN.

Sworn before me, at Harbor Breton, this 15th day of November, 1876.

J. O. FRASER.

Commissioner of Affidavits.

No. 170.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, JOHN LEGRESLY, of Point St. Peter, make oath and say as follows:

1. I am 42 years of age and have been 26 years on this coast. I have carried on the fishing business for myself for the past 11 years; before that time I was in the employ of the late firm of Abraham Degruchy for five years, and for ten years a partner in the fishing firm of Alexander and Legresly. I am thoroughly acquainted with all that relates to the fish of this coast, and the fishing and curing, as well as the nature of the markets for our fish.

2. I employ 14 boats of my own, and I supply from 15 to 20 other boats whose fish I receive. The price obtained in the foreign markets to which our fish is exported varies from \$4.00 to \$8.00 per quintal. The fish obtains a better price because it is hard cured, and thus is fit for warm climates; fish salted in bulk and kept in salt or pickle for any length of time could never be dried to stand in warm climates. The longest time our fish is allowed to remain under salt is three to four days.

3. I have never shipped any fish to the United States markets; my fish obtains a better price elsewhere.

4. The right of fishing on the American coast is of no value to us; none of our fishermen have ever gone there to fish.

5. The free market of our fish in the United States is of no use to the merchants and fishermen of this coast.

6. During the years of the Reciprocity Treaty, about 150 vessels came annually to Gaspé Bay, Meal Bay, and the neighborhood, where they fished for mackerel; during the years when the cutters were on the coast to prevent the Americans from fishing in the inshore waters, a few American vessels did still fish, managing to dodge the cutters. Since the Treaty of Washington the number has not been so great as during the Reciprocity Treaty. Mackerel are plentiful on the coast this season.

7. The privilege of fishing in our waters, and landing to get bait, of transshipping cargoes, and landing to dry nets and cure fish, is certainly a very great one to give any foreigner. I do not believe that a Bank fisherman can depend on the supply of fish taken for bait on the Banks by drifting or otherwise, and that to make a successful voyage they must obtain fresh bait from the inshores. Salt bait is not equal to fresh bait.

8. I consider in the interest of our population, which is fast increasing,

that our fisheries should be kept exclusively to ourselves, nor should foreigners be allowed to get fresh bait in our inshores, nor dry their nets, nor cure their fish on our shores. These are privileges which ought not to be granted to strangers; and if this continues, many of our people will be driven to seek employment elsewhere.

I hereby swear that the above statement is, to the best of my knowledge and belief, correct.

JOHN LEGRESLEY.

The said John Legresley has sworn to the truth of the above statement and affidavit, at Point St. Peter, in the county of Gaspé, and Province of Quebec, this 13th day of August, A. D. 1877, before me.

P. FORTIN, *J. P.*

No. 171.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, JOHN B. FAUVEL, of Point St. Peter, in the county of Gaspé, and Province of Quebec, make oath and says as follows:

1. I am a merchant in fish, of the firm of John Fauvel, of Jersey, in the Channel Islands. I am the manager of the firm in this county. I have lived on the coast for twenty-one years, all of which time I was engaged in the fish business on this coast. We have our principal establishment at Point St. Peter. We have others at Mal Bay and Long Point on the north shore of the St. Lawrence.

2. We employ altogether 36 boats of our own. These boats fish on shares. We also employ about 20 boats belonging to fishermen; these men sell their fish to us. We also purchase fish and fish-oils generally, but our principal business is the codfishery. Our codfish is specially prepared for warm climates, our principal markets being those of Brazil, the West Indies, Spain, Portugal and the Mediterranean ports. The special property of our fish, which enables it to command a higher price, is that it is so hard and thoroughly dried. Our fish cannot be allowed to remain more than three days under salt before being dried. Fish salted in bulk on board of vessels is too long under salt, and cannot be dried in the manner in which we dry our fish. Fish so long under salt as it must be when salted on board a schooner becomes salt burnt, and never will dry thoroughly. Another peculiarity of our fish is that it is dry salted and not pickled. This peculiar preparation enables us to command a higher price for our fish on account of its keeping qualities in warm climates. The name of Gaspé fish in foreign markets is always considered better than any other.

3. We ship about from 3,000 to 3,500 quintals of dried codfish besides other fish and oils. This fish commands from \$4.50 to \$8 per quintal. We ship this fish on our own and other bottoms.

4. We have never shipped any fish to the United States markets, as our fish gets a better market elsewhere.

5. The right of fishing on the American coast is not of any value to us. I never knew of any one having gone there to fish from this coast.

6. The privilege granted to the Americans of fishing in our inshore waters is a very serious injury to us. Our population is already large enough to fish our own waters, and must suffer severely by American competition. I do not hesitate to say that our fisheries ought to be kept exclusively to ourselves.

7. The principal bait-fish on this coast are mackerel, herring, lancee, squid, clams, caplin, &c., all of which are taken close inshore. I consider that the privilege granted to the Americans of landing to take bait is a very valuable one, as no vessel Bank-fishing can depend on taking a supply of bait on the Banks, and must land to obtain bait. Salt bait is by no means equal to fresh bait.

8. The privilege enjoyed by the Americans under the Treaty of Washington of entering our ports to transship cargo is also a very valuable one to them.

I hereby swear that, to the best of my knowledge and belief, the above statement is correct.

JOHN B. FAUVEL.

The said John B. Fauvel has sworn to the truth of the above affidavit at Point St. Peter, in the county of Gaspé and Province of Quebec, this thirteenth day of August, A. D. 1877, before me.

P. FORTIN, *J. P.*

No. 172.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, JOHN LEGROS, of Point St. Peter, in the county of Gaspé, make oath and say as follows:

1. I am a fish-merchant. I am a partner in the firm of James Alexander, of Point St. Peter, for the past 11 years. Before that time I was for 12 years manager for the firm of Fruing & Co., of Jersey, Channel Islands, who are fish-merchants on this coast. I am thoroughly acquainted with all that relates to the taking and curing of fish and the fish-trade generally.

2. Our principal establishment is at St. Peter's Point; we have also one at Sheldrake on the north shore. We employ 24 boats of our own and supply about 20 more belonging to fishermen who give us their fish. Each boat is manned by two men, and we have employed on shore about one man and a half to a boat. We deal in other fish and fish-oils, but our principal business is in codfish.

3. Our Gaspe fish has better keeping qualities in warm climates, and this fact enables it to command a higher price in foreign markets because it is better dried. It is salted, and not pickled. It remains but three or four days in salt before it is exposed to the sun to be dried.

4. Our fish commands from \$4 to \$8 per quintal in the foreign markets to which we export it.

5. The privilege of fishing on the American coast is of no use to us; no one has ever gone from here to fish there.

6. The American free market for our codfish and other fish is of no value to us, as from the reason I have stated before our fish gets a better price in the markets for which it is specially prepared.

7. I certainly consider the permission granted to the Americans of fishing in our inshores, and of taking bait there, a very valuable one. The leave to transship cargoes, land and dry nets, curing and packing fish, &c., is also a very valuable privilege.

8. I consider it very important that we should have our fisheries exclusively to ourselves, and not be subjected to competition by Americans. The population of our coast is fast increasing, and many will have to go somewhere else if strangers are allowed to come and take the fish from their very doors.

9. I consider it impossible for a vessel to make a good fishery—Bank fishing—without obtaining fresh bait from shore, as the supply of bait on the Banks is very uncertain and cannot be depended upon. Salted bait is by no means equal to fresh bait.

10. During the existence of the Reciprocity Treaty I saw many American schooners fishing for mackerel in our inshore waters. I have seen as many as 30 at one time fishing in Griffin's Cove. I estimate the annual number of American schooners fishing for mackerel from Gaspé Bay to Fox River at about from 120 to 150. Since the Treaty of Washington American vessels have fished for mackerel in our inshore, but not in such numbers. Mackerel are generally plentiful on this coast; the number has increased of late years, and this year they are quite plentiful.

11. The Americans used during the Reciprocity Treaty to land, especially when I was at Griffin's Cove, and commit depredations and do damage to property, and threaten and annoy the people. I am also aware that they used to sell and barter goods that had not been entered at the custom-house. The vessels used to anchor among the moorings and nets and interfere seriously with our own fishermen by obstructing them.

I hereby swear that the above affidavit is, to the best of my knowledge and belief, correct.

JOHN LEGROS.

The said John Legros has sworn to the truth of the above affidavit at Point St. Peter's this thirteenth day of August, A. D. 1877, before me.

P. FORTIN, *J. P.*

No. 173.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, ADOLPHUS E. COLLAS, of Point St. Peter, in the county of Gaspé, in the Province of Quebec, make oath and say as follows:

1. I was born in Jersey. I am 31 years of age, and have been sixteen years on the coast here, and all that time in the employment of Messrs. J. & E. Collas, fish merchants, carrying on the fishery on the north and south shores of the River and Gulf of St. Lawrence. I am their general agent.

2. We have fishing establishments at the following places: Point St. Peter's (headquarters), Mallbay, Gaspé Basin, Moisie, Sheldrake, St. John, these three last places on the north shore, and English Bay at the west point of Anticosti.

3. We own ourselves 120 fishing-boats, and employ besides 230 boats owned by fishermen of the coast. They are supplied by us and give us their fish. These boats are engaged solely in the cod fishery. I may state that the cod is our principal business, although we deal in other fish and fish-oil. Our codfish is all dried and exported to foreign countries in our own vessels. This fish is specially prepared for exportation to the West Indies, Brazil, Portugal, Spain, and Italy. It is superior to any other codfish, prepared no matter where; its superiority lies in its being perfectly dried, so that it will keep for a length of time in hot climates when other fish will spoil. We own six sea-going vessels engaged in this foreign trade, and two coasters. We also at times charter other vessels.

4. We ship on an average from fifteen to twenty thousand (20,000) quintals of dried codfish annually, besides other fish and fish-oil. The price we obtain at the foreign markets above mentioned ranges from \$4.50 to \$8 per quintal.

5. We have never sent any of our fish or fish-oil to the United States, as the foreign markets above mentioned are better markets; that is, we get higher prices for our fish there.

6. My opinion is that the right of fishing in American waters is of no value whatever to us.

7. It is of the utmost importance to the people of this coast to have our fisheries in our own hands, and not to allow Americans to participate in them. The population of the coast is increasing so rapidly that new fishermen enter every year into the business, and we require all our fisheries to give them employment, and enable them to procure a livelihood.

8. The baits for cod fishing found on this coast are mackerel, herring, caplin, launce, smelt, chubs, squid, and clams; there is always an abundance of some kind of the above-mentioned bait. When one kind fails we can always find a substitute.

9. It is my opinion—and I base my opinion upon experience, because we had one of our vessels fishing on the Banks for several years—that American fishermen could not profitably carry on the cod and other fisheries of the deep sea without resorting to our inshore waters to procure bait, either by seining, netting, or by purchase.

I hereby swear that the above statement is, to the best of my knowledge and belief, correct.

A. E. COLLAS.

The said Adolphus E. Collas has sworn to the truth of the above affidavit, at Point St. Peter's, this thirteenth day of August, A. D. 1877, before me.

P. FORTIN, J. P.

No. 174.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

1, DANIEL ORANGE, of Paspebiac, of the county of Gaspé, in the Province of Quebec, make oath and say as follows:

1. I am 43 years of age. I have been 29 years in this country, in the employment of Messrs. Charles Robin & Co. I have been the general agent for this firm for the last three years.

2. Our principal business is the cod fishing and curing and fish-oil trade. We own 450 fishing boats that take two men each, besides several fishing-schooners of from 7 to 50 tons, employed in the coast fishery. We own, also, 14 foreign-going ships and coasting craft—ten in number; most of these vessels were built here, there being now one actually building on the stocks. The sea-going vessels range from 100 to 350 tons each; the coasters average about 50 tons. Besides the 900 fishermen mentioned above, we employ 900 men, made up of shoremen, *i. e.*, those employed in curing fish on shore, ship and boat builders, blacksmiths, coopers, sailmakers, and other mechanics. Besides these, our foreign-going vessels are manned by about 140 men, and our coasters by about 70; making in all 2,010 men. Our firm has been established in this country for more than a century, and has always been in operation since.

3. In 1876, our firm exported 70,000 quintals of dried codfish to Brazil, Spain, Portugal, West Indies, and Italy. The fishery that year was a partial failure. We exported, also, that year 40,000 gallons of fish oil. In an average year we would export from 90,000 to 100,000 quintals of dried codfish.

4. None of our fish is exported to the United States, as our fish is prepared entirely for exportation to hot climates, where it is known to keep well, it being of a superior quality; we could not obtain in the markets of the United States for our fish a price that would be remunerative. We even tried the United States market with green herring during the Reciprocity Treaty, when there was no duty, and we found it did not pay.

5. Most of our codfish are taken within three miles of the shore.

6. During the Reciprocity Treaty and the period of licenses I saw annually a large fleet of American vessels fishing for mackerel on the north as well as the south shore of this Bay of Chaleur. On one occasion I saw at Perce 80 to 100 sail at anchor. Since I came to Paspebiac, three years ago, I have seen several American vessels fishing for mackerel in this bay, and to-day several are fishing within the 3-mile limit. The day before yesterday they took their mackerel with seine close to the shore, much to the injury of our inshore fisheries, as it hinders our cod-fishermen very much in their getting bait for their fishery.

7. The following is a list of our various fishing establishments: Paspebiac (headquarters), Perce, Grand River, Newport, Pabos L'Anse au Beau Fils, Magpie, Cape Cove, Dock, St. John, Natashquan, in the Province of Quebec, Carraquette, Shippegan, in New Brunswick, Arichat, Small and Big Cheticamp, in Cape Breton, N. S.

I hereby swear that the above statement is to the best of my knowledge and belief correct.

D. ORANGE.

The said Daniel Orange has sworn to the truth of the above affidavit at Paspebiac, this sixteenth day of August, A. D. 1877, before me.

P. FORTIN, J. P.

No. 175.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, JOSHUA MOURANT, of Paspebiac, in the county of Bonaventure, and Province of Quebec, make oath and say as follows:

1. I am 34 years of age, 27 years which I have lived on this coast. I am a native of the Island of Jersey, Chaniel Islands. I am 27 years in the employment of the firm of LeBoutillier Brothers, of Jersey, who carry on the fishing business. I am 20 years an agent, and for the past four years I have been the general manager of the firm.

2. The following is the list of the fishing establishments of this firm: Paspebiac (headquarters), Bonaventure Island, Thunder River, Magpie, Green Island, Wood Island, all in the Province of Quebec, and Fortune Bay, on the coast of Labrador.

3. We own 170 fishing-boats, with from 2 to 3 men each, and we employ, as fishermen and shoremen, carpenters, clerks, blacksmiths, and other mechanics, over one thousand men. We own 5 foreign-going vessels, and charter 7 others, 4 coasters.

4. Our principal business is the cod fishing and curing, and also her-

ring and fish oils. We export, on an average, annually, 21,000 quintals of dry codfish to Brazils and Mediterranean and West Indies. We also export about 50,000 gallons of cod and seal oils. All of this oil goes to English markets. We do not export any fish to the United States at present, nor for three years. We have tried both herring and large codfish (dry and green), and took great pains that it should give satisfaction, and with all that it was sacrificed in the American markets. As to the dry codfish that we prepare for the before-named foreign markets, and which is of a superior quality, the American market would not pay us what we pay for it here.

5. The American free market is of no use to us at all.

6. The great bulk of the codfish taken is got within three miles of the shore.

7. The right of fishing in American waters is of no value to us; we never go there to fish.

8. From 1854 until the expiration of the period of licenses the Americans fished in the Bay of Chaleur in great numbers for mackerel—they used generally to load their vessels. Since 1871 we have still seen them, but not in such numbers, and we see them still; they are here to-day. An American captain told me yesterday that he caught over 30 barrels of mackerel off the light-house on the point. The mackerel fishing in this bay generally begins about the 20th of this month. According to reliable information, I believe the mackerel is now plentiful in the bay, and lots are caught in the nets.

9. I believe it is our interest to keep our fisheries to ourselves, and not allow strangers to participate in them, as our population is increasing, and if strangers are allowed to fish in our inshore waters many of our young men will have to emigrate.

10. Many of the American schooners use trawl lines in the prosecution of their cod-fishing, which causes great injury, it being most of the mother fish they catch. They also do damage by the practice of throwing over the offal.

11. If the American Bank fishermen were prohibited from taking or buying bait on shore, they could not carry on their Bank fishery successfully, as the supply of bait on the Banks is not certain.

I hereby swear that the above statement is, to the best of my knowledge and belief, correct.

J. MOURANT.

The said Joshua Mourant has sworn to the truth of the above affidavit at Paspebiac, in the county of Bonaventure and Province of Quebec, this sixteenth day of August, A. D. 1877, before me.

P. FORTIN, J. P.

No. 176.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, FRANK LEBLANC, of Port Daniel, in the county of Bonaventure, Province of Quebec, make oath and say as follows:

1. I am fifty years of age. Since the age of 14, that is, for the past 36 years, I have been a mariner. I have sailed in the Gulf of St. Lawrence, on the coasts of the maritime provinces and Newfoundland, the Atlantic coasts of America, to the West Indies, and to Great Britain, and for the last 25 years I have been master mariner in command of a coasting

vessel employed in the fishing business, and owned by Messrs. LeBoutillier Bros. Before entering into the employment of Messrs. LeBoutillier Bros., I lived for 7 years in Boston, U. S., and during that time I was engaged in fishing during the summer on board of American mackerel-fishing vessels, while during the winter I went to sea on different voyages—sometimes to the West Indies, sometimes to Europe. Our cruising grounds during those 7 summers, after mackerel, were for the first voyage the Bay des Chaleur, off Bathurst, and Grand Anse, close to the shore, and we made our second voyage on the north shore of Prince Edward Island, off Rustico, close to the shore, not only within the 3-mile limit, but as close as we could get. We took the fish with hook and line, the mode called bobbin_g. I mean to say that during the 7 summers alluded to we made two trips each year, going always to the places mentioned above. The American schooners on which I made those voyages hailed from Bass River, Cape Cod, and were about 60 tons each, carrying 18 men. Our voyages took usually from 3 to 6 weeks. The schooners were clipper vessels and carried 350 barrels. We never went home without a full load of beautiful fat fish. All the fish we took during those 7 summers were taken strictly within British waters. On one occasion we made our voyage off Rustico in 8 days; we took 140 barrels in one day, and I myself took with my two lines from sunrise till about 8 o'clock a. m. eleven barrels.

While fishing on the above-named grounds we used to see annually about 40 American mackerel vessels in the Bay of Chaleur, and from 80 to 100 on the north coast of Prince Edward Island. These vessels were all fishing on the same grounds as we were, but besides these there were a great many other American mackerel schooners fishing in the bay and off Prince Edward Island.

2. During the Reciprocity Treaty I have been, as before stated, in command of a coasting schooner owned by LeBoutillier Bros., and in that capacity made every year ten voyages from Paspebiac to the north shore of the River Saint Lawrence, and one trip to Quebec in the fall. Besides that, I used to go very often from Paspebiac to Bonaventure Island. During those trips I always passed along and usually close to the coast of Gaspé County.

3. During the Reciprocity Treaty and the period of licenses I saw myself, every year during the mackerel season, a great number of American vessels fishing for mackerel in the Bay of Chaleur, on the coast of Gaspé, on the south shore of the River Saint Lawrence as high as Magdalen River, and on the north shore as high as Point des Monts to the west, and as far as Mingan to the east. I saw annually on these shores above named, and nearly all within three miles of the coast, in the act of fishing, from 250 to 300 American mackerel schooners. This I consider a low estimate. Most of these vessels made two trips every year. Some of these vessels were 120 tons and carried 25 hands, and took as much as 800 barrels a voyage. These vessels all carried away on an average from 350 to 400 barrels each trip.

Between the period of licenses and the commencement of the Treaty of Washington I still saw a good many vessels fishing in British waters along the above-mentioned coasts. They used to dodge the cutters. Since the Treaty of Washington the number has been greater, and I estimate it at at least 80. They were of the same description as before, and fished in British waters. Most of them made two voyages, and carried away from 350 to 400 barrels each voyage.

4. For the last ten or twelve years I have seen along the north shore of the St. Lawrence from Point des Monts to Mingan about ten Ameri-

can halibut fishing schooners coming annually and fishing close to the shore, and all within three miles of the shore. They fished with trawl-lines. Each vessel carried from 4 to 6 dories, and each dory had a thousand hooks on their trawls. The halibut they took was gutted and packed in ice on board, and carried in a fresh state to the United States. Some of those vessels made two voyages, and I estimate their load at from 60,000 to 70,000 pounds each.

When those vessels commenced fishing on the north shore, I can state that the halibut were very abundant. At present, however, the inhabitants find it difficult to get any for their own use. I attribute this falling off to the number taken by the Americans with trawls, which is an extremely destructive mode of fishing, as it kills the large mother fish. While in the States, I learned that the Americans had ruined many of their fishing-banks with trawl-lines, and since then I have heard from United States fishermen that a similar destruction has been going on on the American coast.

5. I consider that the privilege of fishing in American waters is absolutely useless to us, as I know from experience that fishermen going from here there would not be able to catch fish enough to pay for their salt.

6. To my own knowledge the crews of some of those American vessels have gone ashore and often committed depredations on our coasts. They used to break down fences, trample the gardens and crops, and insult the people. Five years ago there were a great many United States fishing-vessels at anchor at Port Daniel, and a band of fishermen from them went to my house, burst open the door, and tried to force their way in. They were only prevented by my wife and children defending themselves. My wife herself had to threaten them with an ax; finding such resistance, they went away.

I hereby swear that the above statement is to the best of my knowledge and belief correct, as is also the following statement: In the same year a boat's crew landed from one of those American fishing-vessels at Port Daniel; they, during the evening, robbed the garden of Dan Sullivan, my neighbor; his wife saw them, and went out to remonstrate, when one of them pulled out a revolver and fired at her; the ball went through the door-post, she standing at the door.

F. LEBLANC.

The said Frank LeBlanc has sworn to the truth of the above affidavit, at Paspébiac, this sixteenth day of August, A. D. 1877, before me.

P. FORTIN, J. P.

No. 177.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, THOMAS C. REMON, of Little Pabos, of the county of Gaspé, of the Province of Quebec, make oath and say as follows:

1. I am a native of Jersey, and have been on this coast for more than 30 years. I was for seven years in the Gaspé Fishing and Coal Mining Company as clerk. I afterwards and since carried on business on my own account. I am thoroughly conversant with all that concerns fish and fishing. I keep fishing-boats.

2. I am well acquainted with the fishing carried on from Paspébiac to Perce, a distance of about 90 miles. The principal fisheries on this coast are the cod, mackerel, herring, and halibut. The baits are caplin, herring, mackerel, squid, smelts, and clams.

3. With regard to codfish, I think the number of fish on the grounds is as great as it ever was; though each individual boat may not take so many as formerly, still there are very many more boats now than then, and the quantity of fish exported annually is much greater now. The best quality of codfish is that taken close inshore.

4. I do not believe that any vessel fishing on the Banks could carry on that fishery with success and make a paying voyage without the privilege of coming inshore to buy or take bait, as the supply of bait on the Banks is very uncertain.

5. I have often seen American Bank-fishing vessels come close inshore, within the three-mile limit, to take bait; they also came frequently inshore to get wood and water.

6. The mackerel school inshore, and the bulk of them is taken inshore. They feed on the small fish and the shrimps in the shallow shore water.

7. Prior to the year 1854 a considerable number of American schooners fished in our inshore waters here for mackerel. In 1853 one of them was taken and confiscated by a British frigate, the *Devastation*. From the year 1854 till the expiration of the period of licenses, a very large number of American schooners fished on this coast for mackerel. I have seen as many as 60 at one time in the offing. The average annual number of United States mackerel schooners that visited the coast above mentioned, during that period, I estimate at not less than 200. They averaged, I should think, 80 tons, and carried crews of from 15 to 20 men. All their vessels took full fares; many of them made two voyages. They took each trip, I should think, from six to eight hundred (800) barrels. Most of this fish was taken inside the three-mile limit.

8. It was a common habit with the Americans when fishing for mackerel to come close inshore among our boats that were also fishing for mackerel, and by throwing overboard bait plentifully and allowing their vessel to slowly drift outside, to draw the fish away from our boats outside.

9. The herring and cod spawn in great numbers on this coast.

10. The American free market for our fish is not of the least use to us, for our fish are prepared for either our own market or for warm countries, where they find a better market than in the United States.

11. The privilege of fishing in the United States waters is of no value to us whatever.

12. I think it of great importance to us that our fisheries should remain entirely in our own hands.

13. The practice of throwing overboard offals is very injurious to the fishing-ground.

I hereby swear that the above statement is, to the best of my knowledge and belief, correct.

THOMAS C. REMON.

The said Thomas C. Remon has sworn to the truth of the above affidavit at Little Pabos, this fifteenth (15th) day of August, A. D. 1877, before me.

P. FORTIN, J. P.

No. 178.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, WILLIAM O'CONNOR, of Little Pabos, of the county of Gaspé, Province of Quebec, make oath and say as follows:

1. I am 50 years of age, and for the last thirty years have fished and

carried on the fishery at this place. I am practically well acquainted with fishing and all that relates to the fish trade. I know thoroughly all the coast from Gaspé to Paspebiac. The chief fish taken on that coast are cod, mackerel, halibut, and herring. The baits are caplin, mackerel, herring, squid, launce, smelt, and clams. All these baits are taken close inshore.

2. There are just as many codfish now as there ever were, although many more are taken every year, there being more boats; it does not seem to have diminished the number at all.

3. It is my opinion that the Americans could not fish for cod on the Banks and make profitable voyages without having the right to come inshore to take bait or to buy it.

4. During the Reciprocity Treaty and the period of licenses there were annually a great number of American vessels fishing for mackerel in our inshore waters on this coast. I mean within three miles of the coast. There were from Cape Despair to Paspebiac, annually, on an average, a couple of hundred, I should think, and I have seen as many as sixty sail American schooners at one time in the offing. These vessels took the greater part of their mackerel within the three-mile limit. The tonnage of these vessels varied from 60 to 100 tons, manned by from 15 to 18 men. They generally took full cargoes here, carrying on an average about 700 barrels. The mackerel taken was of a fine quality.

5. For the first five years of the Treaty of Washington, that is from 1871 to 1875 inclusive, I have seen a good many American vessels fishing for mackerel on the same grounds and over the extent of coast above described. I estimate their annual number at one hundred (100). They were vessels of the same description as before, and took about the same quantity of fish.

6. It is certainly of no value to us to have the right of going to fish in American waters.

7. The United States free market is of no use to us, for our fish is prepared especially for hot climates, where, unless it were extremely dry and hard, it would not keep at all.

8. I think the privilege acquired by the Americans, through the Treaty of Washington, of resorting to our inshore waters and harbors for drying and hauling their nets, getting wood and water and ice, obtaining shelter, and transshipping cargoes, is one of very great value to them.

I hereby swear that the above statement is to the best of my knowledge and belief correct.

WILLIAM O'CONNOR.

The said William O'Connor has sworn to the truth of the above affidavit, at Little Pabos, this thirteenth (13th) day of August, A. D. 1877, before me.

P. FORTIN, J. P.

No. 179.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, JOHN M. LUCE, of Grande Greve, in the county of Gaspé, and Province of Quebec, make oath and say as follows:

1. I have been engaged on the coast of Gaspé for 16 years. I am manager for the firm of Wm. Fruing & Co., of Jersey, Channel Islands. I reside at Grande Greve, where we have our principal establishment.

We have also fishing establishments at Cape de Rosier, Griffin's Cove, Fox River, Claridorme, Grande Vallee, Mont Louis, and Gaspé Basin, all in the county of Gaspé. We have also several fishing establishments in New Brunswick.

2. I am practically acquainted with all that relates to the catching and curing of fish, as well as to the nature of the fish required for the different foreign markets.

3. The principal fisheries of this coast from Gaspé Bay to St. Anne des Monts are the cod, halibut, mackerel, and herring.

4. The cod is quite as plenty now as when I first came on the coast, though the quantity may vary each year. This year the fish are in unusually good condition.

5. Halibut were plentiful all along this south coast of the St. Lawrence when I first came here, especially at Grand Vallee and Magdalene River; now the quantity is very small indeed. I attribute this destruction of the halibut fishery to the exhaustive fishing of the Americans with their numerous and large trawls. All these halibut and other fish are taken close along shore, within the three-mile limit.

6. In the year 1860 and following years up to 1868, during the Reciprocity Treaty and two years of licenses, at least one hundred American mackerel schooners fished for mackerel along this bay and coast with seines and bobs. I have seen them seining in the harbor of Gaspé, inside of Sandy Beach. These vessels were from 70 to 150 tons, having from 15 to 20 men each. They generally loaded, and would average from 600 to 800 barrels.

7. The herring fishery is as good as usual. This spring they were very plentiful.

8. The right of fishing on the American coast is of no use to us. We have as much as we can do on our own coast. Our fishermen would not go there; and the fact that so many Americans come to our waters to fish, leads us to believe that they have not fish nearer home.

9. The free market of the United States is not of any benefit to us. I have never shipped fish to the United States, and I do not know of any other merchant from this coast who has. Our fish is prepared in a peculiar manner for the Brazilian, West India, and Mediterranean markets, where it commands a higher price than other fish.

10. Without the permission to fish in the inshore waters, and to get bait along shore, no foreign or other vessel could make a successful fishing voyage.

11. I am most decidedly of the opinion that our inshore fisheries should be kept exclusively to ourselves. Our fishing population is increasing, and will require the use exclusively of our own fisheries. No indemnity that we may receive will be an equivalent for the loss caused to us by granting the use of our inshore fisheries to foreigners; and if the Americans come here in greater numbers, many of our fishermen will have to emigrate from the coast.

I hereby swear that the above statement is, to the best of my knowledge and belief, correct.

J. M. LUCE.

The said John M. Luce has sworn to the truth of the above affidavit, at Grande Greve, in the county of Gaspé, this 10th day of August, A. D. 1877, before me.

P. FORTIN, J. P.

No. 180.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, HENRY PRICE, of Grande Greve, of the county of Gaspé, of the Province of Quebec, make oath and say as follows:

1. I am 53 years of age. I was born here, and have fished for the past 40 years. I am well acquainted with all the fisheries of this Bay of Gaspé and the neighboring coast. They are the cod, mackerel, herring, and halibut, and are all carried on inshore, within three miles of the coast and in the bay, except as to the cod fishery, as some few are taken off Ship Head, beyond the three-mile limit.

2. As long as I can remember, the American fishing-vessels have resorted to this bay for the mackerel-fishing, but it was during the existence of the Reciprocity Treaty and the period of licenses that they came in greatest numbers. There were, I should think, from 150 to 200 of them came here every year of this period. Many of these made two trips the season. They averaged from 50 to 100 tons, and took about 500 barrels each. During the first three or four years of the Treaty of Washington, a good many American vessels came still to this bay and the neighboring coast, of the same class as formerly—about two-thirds as many as before—say, from 100 to 140; but for the last few years we have seen only a few, although their catch was about the same as formerly. The mackerel they took was of the best quality, especially those caught at the latter part of the season. They fished with hook and seine.

3. The crews of those American fishing-vessels often committed depredations on this coast. I can state that some years ago about 30 of them came ashore and took forcible possession of my house, insulting and threatening my family, capsizing everything in the house, and I had to get the assistance of my neighbors to drive them away. Sometimes they anchored in the midst of our nets, and, when getting under way, broke and carried them off. One of my nets, worth \$20, was torn to pieces by one of those American vessels, when it could easily have been saved.

4. The American fisheries are entirely useless to us.

5. I think it most injurious to us that the American fishermen should be allowed to come to our waters, because they take such large numbers of fish, and draw the fish outside of our ordinary fishing grounds, by throwing overboard bait. I have myself seen United States fishermen preventing us from fishing near them, when in our own waters, ordering us off with threats.

I hereby swear that the above statement is, to the best of my knowledge and belief, correct.

HENRY PRICE.

The said Henry Price has sworn to the truth of the above affidavit, at Grande Greve, this tenth day of August, A. D. 1877, before me.

P. FORTIN, J. P.

No. 181.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I. WILLIAM HYMAN, justice of the peace and mayor of the township of Cape de Rosier, of Grande Greve, in the county of Gaspé, make oath and say as follows:

1. I am a merchant, and have lived here for 34 years. I have been in the fishing business all the time. I have an establishment here, one at Cape de Rosin, one at Fox River, and another at Gaspé Basin. I understand every operation practically relating to the taking and curing of fish. I am acquainted with the fisheries carried on from Grand Etang to Gaspé Bay. The fisheries there carried on are the cod, herring, mackerel, and halibut.

2. Those fisheries are carried on mostly within three miles from the shore. The value of the inshore fisheries, therefore, is vastly greater than those outside; the fact is, very few boats go outside. The run of the codfish is about the same on the coast as it was formerly, though, owing to the greater number of boats, each boat may not have so much.

3. The herring, upon the whole, appears to be in the same quantity as formerly. They spawn in large quantities at Sandy Beach, in the Bay of Gaspé.

4. The mackerel were very abundant in this bay, and along the outside coast; for the last few years they have been scarce. They some years ago failed in the same way but came back again, and they have already appeared this year.

5. Ever since I settled here, I have seen American mackerel-vessels fishing for mackerel, both in the bay and harbor of Gaspé and the neighboring coast; they fished with the bob and with seines; sometimes the bay used to be full of them; from 100 to 200 vessels used to come during the season; the tonnage of these vessels was from 60 to 100 tons, carrying from 15 to 20 men; they fished with hooks and seines, some of them loaded more than once, and they carried on an average from 500 to 600 barrels. Although before the Treaty of Reciprocity the coast was guarded, yet they managed to come and fish, but the greatest numbers were seen during the existence of the Reciprocity Treaty and the period of licenses, a period of about 14 years; after this time, during the years 1868, 1869, and 1870, the coast was again guarded, and still they managed to come in certain numbers, defying the cutters; they did not mind the cutters, as they believed they could outsail them. Since the Treaty of Washington they came in numbers, until the last two or three years; during the first three years of the Treaty of Washington only about one-fourth of the number that used to come during the Reciprocity Treaty.

6. The presence of so many American vessels in this bay and along the coast, above described, was very injurious to our fisheries, depriving us of the bait for codfish, and by their superior dexterity preventing our people from taking as much as they would have done otherwise, as they used to draw the fish outside with their bait, and also, by throwing the offals of the mackerel overboard outside of the bay, they used to keep the codfish from coming inshore; the injury has been as great in proportion since the Treaty of Washington.

7. The American vessels fishing cod on the banks cause injury to the inshore cod fisheries—first, by using trawl lines, they kill the mother-

sh; second, by the hurt caused to the codfish by the offals, which being swallowed by the cod, the bones swallowed destroy them.

8. The American mackerelers using seines, fished in the Bay of Gaspé, inside of Sandy Beach and Peninsula, hauling their seines on shore.

9. The privilege of fishing in American waters is of no value to us; our fishermen will never go there.

10. The American free market for our fish is of no value to us; we make a superior dry codfish to them, and we ship to Brazil and European markets. I have been in business for 34 years, and have never shipped any fish to the United States. And we do not know of any other merchant ever having done so.

11. It is our interest to keep our fisheries to ourselves, and not to allow foreign fishermen to come into our inshore fisheries.

12. The competition of the Americans is very hurtful to our own fishermen, especially as regards the mackerel and halibut for this coast.

13. American fishermen committed many depredations, and they used to land and sell many articles without paying the duty.

I hereby swear that the above statement is, to the best of my knowledge and belief, correct.

WM. HYMAN.

The said William Hyman has sworn to the truth of the above deposition, at Grande Greve, in the county of Gaspé, and Province of Quebec, this 4th day of August, A. D. 1877, before me.

P. FORTIN, J. P.

No. 182.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, ABRAHAM GAVEY, of Grande Greve, of the county of Gaspé, of the Province of Quebec, make oath and say as follows:

1. I am 35 years of age; I am a practical fisherman, and have been engaged in carrying on the fishery for the last 20 years; I am well acquainted with the fisheries carried on in this bay and the neighborhood. I was born here.

2. The fisheries here are cod, halibut, mackerel, and herring.

3. I have seen a large number of United States vessels fishing in this bay every year for mackerel and cod ever since I can remember, but they were much more numerous during the existence of the Reciprocity Treaty. I should think that there were, during that treaty, at least from one to two hundred American vessels fishing in this bay every year. They were, on an average, from 60 to 100 tons each, manned by from 15 to 20 men; a good many of these vessels, as they themselves have told me, made two voyages. I have seen myself, at one time, as many as 50 American fishing-vessels anchored from Grande Greve to Little Gaspé, a distance of one mile. The average catch of each vessel, as near as I can reckon, was about 500 barrels; and the mackerel they took was, especially at the latter end of the season, of the very first quality. That mackerel was taken by hook and seine; the seining was done in the harbor, inside of Sandy Beach, and also in the bay with purse seines.

4. During the first years of the Treaty of Washington the number of American schooners mackerel-fishing in this bay and the vicinity was

about a quarter of what it was during the Reciprocity Treaty, although there were as many fish then as during the Reciprocity Treaty; but for the last three years the fishing has fallen off. This year, however, they seem to be increasing again.

5. The throwing overboard of offal is extremely injurious to the fish and fishing-grounds. This is always done by the American fishing-vessels, both in the bay and outside.

6. The United States fishermen have often committed depredations on this coast, threatening to do bodily harm to the inhabitants, trampling down the crops, and stealing sheep and potatoes. One vessel tried to run down my brother, Daniel Gavey, and his partner, who were in their boat going codfishing; this occurred four years ago.

7. It is my opinion, and I am sure all the fishermen on this part of the coast think so also, that the privilege of fishing in United States waters is of no value whatever to us.

I hereby swear that the above statement is, to the best of my knowledge and belief, correct.

ABRAHAM GAVEY.

The said Abraham Gavey has sworn to the truth of the above affidavit at Grande Greve, this tenth day of August, A. D. 1877, before me.

P. FORTIN, J. P.

No. 183.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, PETER FERGUSON, of L'Ance au Beaufils, county of Gaspé, and Province of Quebec, make oath and say as follows:

1. I am 55 years of age. I was born here and have lived here all my life. I began to fish when I was 15 years of age. I am practically acquainted with the fisheries of this coast.

2. The fish found on this coast are codfish, herring, mackerel, and halibut; the principal baits are herring, capelin, squid, mackerel, smelt, and launce. The herring spawn abundantly along the coast, and we see great schools of young herring during the summer. Bait is generally abundant; when one fails we get another kind; we always get bait close inshore, always within the three-mile limit. We find that the codfish is generally as abundant as it was 30 years ago; but the fishing is more abundant; according to the state of the weather, and the supply of bait. In L'Ance au Beaufils Cove, where there are 36 boats, the fish is mostly caught within the three-mile limit, very few going to the Bank. Ninety per cent. of the fish is taken inside the limit of three miles.

3. It would not pay an American schooner fishing on the Bank to remain there fishing without the privilege of taking bait on shore. She could not make a profitable voyage and trust to getting bait on the Bank. I have several times seen American bankers coming to get bait on shore, and last year one of them employed my neighbor to seine caplin for bait for him.

4. During the Reciprocity Treaty and the period of licenses, I saw a great many American mackerel schooners along this coast, and several times I have counted as many as thirty between Whitehead and Cape Despair, within the limit. The average number during each season was between 200 and 250. They used both to take the mackerel inside

of the limits and bait them outside. I was on one occasion on board a schooner that baited the mackerel close to the shore, and thus brought them outside. This was an American schooner. I believe this was a common practice. These schooners were from 60 to 100 tons, and took from four to eight hundred barrels each. They told me themselves that they generally made two trips in the season. They used to grind up the small mackerel they took for bait. It is a common practice for the Americans to begin to fish inside the limit. The mackerel generally feed on shrimps, close inshore, and on other small fish.

5. During the first three years of the Treaty of Washington they continued to come in numbers, and fish as before in our inshores. There were at least half the number that used to come under the Reciprocity Treaty fishing each year on this shore; as I have said, after the beginning of the Treaty of Washington, for the last couple of years, I have not seen so many.

6. I believe that the mackerel spawn along the shore. We have often taken the young mackerel fry in our lance-seines along the beach. We generally see the mackerel schooling along this shore about the end of August, and two years ago I saw them as thick as caplin in among the boat-moorings. I believe if the Americans must come they could take as many as during the years past. The mackerel taken along the shore are of fine quality.

7. The right of fishing on the American coast is of no use to us; our people don't want to go there.

8. Their free market is of no use to us. Our fish is prepared for foreign markets other than that of the United States. I mean for Brazil, West Indies, Spain, Portugal, and the ports in the Mediterranean.

9. The competition of American fishermen in our waters is a tremendous detriment to our fishing interest.

10. It would certainly be more advantageous for us to keep our inshore fisheries to ourselves.

I hereby swear that the above statement is to the best of my knowledge and belief correct.

PETER FERGUSON.

The said Peter Ferguson has sworn to the truth of the above affidavit, at Cape Cove, in the county of Gaspé, and Province of Quebec, this fourteenth (14th) day of August, A. D. 1877, before me.

P. FORTIN, J. P.

No. 184.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, CHRISTOPHER BAKER, of Cape Cove, make oath and say as follows:

1. I am mayor of Cape Cove. I am 39 years of age. I was born here, and have lived all my life at Cape Cove. I have fished for 14 years. I began to fish at 12 years of age. Since I was 26 years of age, I have been engaged in the fishery business on my own account, and keep fishing-boats. I have always had 10 or 12 boats fishing every season. I am practically acquainted with all that relates to fishing, and the fish trade. I am well acquainted with the coast of the Gulf of St. Lawrence and the Bay of Chaleur from Gaspé Basin to Paspébiac, a distance of about 100 miles.

2. The principal fish taken along this coast are the cod, herring, mackerel, and halibut, cod-fishing is the principal, and the baits are herring, caplin, mackerel, squid, smelt, and lancee. The run of cod-fish is about the same as formerly, though there are more boats now than formerly.

3. No vessel, American or other, could make a profitable voyage at Bank fishing without the privilege of taking bait on shore, or bringing it from the fishermen of the coast. I do know that bankers come for bait to the shore. I, last year but one, sold bait to an American Bank-fisherman, and hired my seine to another to seine caplin, which caplin he seined from the beach.

4. Herring spawn here along the shore in abundance.

5. I have seen many American vessels fishing along shore during the existence of the Reciprocity Treaty and the period of licenses. I have seen at one and the same time in Cape Cove, when I was fishing, 50 American mackerel schooners anchored in the bay. There were some at the same time at other places. I believe that each year along this coast during the period specified above, at least (200) two hundred American schooners used to fish for mackerel, each from 50 to 100 tons, manned by from 12 to 18 men; some, and I believe the most, made two voyages, and I believe they took on an average 600 barrels each. Most of the mackerel they took was taken inside of the three-mile limit.

6. A smaller number continued to fish for mackerel inshore, even when the cutters were placed on the coast to prevent them.

7. For the first years of the Treaty of Washington the Americans continued to come in numbers, but for the last two years they have not come in such numbers. They fished as formerly, inside of the three-mile limit. I consider the number that come about here was about one-third of the number that come during the Reciprocity Treaty.

8. It is a great advantage for the Americans to have the privilege of fishing inshore; without that privilege they would get very little mackerel outside of the limit. I have bought fish (codfish) and oil and cod roes from them. I have heard that they did trade a little on the coast!

9. I have seen the Americans throw offals overboard, and I believe this to be injurious to the fish and the fisheries.

10. The privilege they have of taking bait on shore, of getting ice, and transshipping cargoes is of great value to them.

11. The right we have acquired by the Treaty of Washington of fishing in American waters is not of any value to our fishermen.

12. The American free market is no benefit to us; my fish is prepared for the Brazil and European markets; the price we could get in the States would not pay us.

13. It is certainly our interest to keep our fisheries to ourselves, and not to allow foreigners to participate in them.

I hereby swear that the above statement is, to the best of my knowledge and belief, correct.

CHRISTOPHER BAKER.

The said Christopher Baker has sworn to the truth of the above affidavit, at Cape Cove, in the county of Gaspé, this 14th day of August, A. D. 1877, before me.

P. FORTIN, J. P.

No. 185.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, DAVID PHILLIPS, of Peninsula, in the county of Gaspé, make oath and say as follows:

1. I have lived at Peninsula, in Gaspé Bay, for forty-six years. I am a farmer and have fished. I understand practically all that relates to the taking and curing of fish. I am 72 years of age.

2. The principal fish taken in this bay are the cod, mackerel, halibut, and herring.

3. The codfish taken varies in quantity year by year, but more is taken now than was taken 30 years ago. I believe that the codfish spawn in the bay, and we see great quantities of the young codfish.

4. The herring spawn in this bay. I have seen the sea whitened by the milt of the male.

5. Formerly mackerel were very abundant, and I have seen the mackerel schooling in great numbers. I have seen them so thick that one could almost walk on snow-shoes over them. Last year and the year before but few were caught. This year the mackerel are appearing in quantity, and there is the prospect of a good catch. I have not for many years seen the mackerel so large, and good in quality. When I first came here a few American schooners used to fish in the bay for mackerel, but afterwards they became so numerous that I have seen as many as forty of them in the bay at one time. During the time of the Reciprocity Treaty they fished in the bay in great numbers, and I estimate the annual number that did so at from 100 to 150 and 200. The tonnage of these vessels was from 50 to 100 tons. Some of these vessels made two voyages. I average the number of barrels taken by each to be about 500 barrels. When, after 1868, the coast-guard schooners were put on to keep the Americans from fishing in the inshore waters but few Americans came in to fish. In the first years of the Treaty of Washington about one-third of the number that came under the Reciprocity Treaty visited the bay to fish. These vessels were of the same tonnage, and the catch was about the same. The waters of this bay are most accessible; the bay is sheltered, there is a fine, convenient harbor in all weather, and a good supply of wood and water.

6. The privilege granted to the Americans to fish at our doors is no benefit certainly to us; far from it; it is a serious injury. I certainly wish to see our inshore fisheries kept exclusively for our own fishermen. Our population is increasing rapidly, and we require that all our fisheries should be preserved to ourselves, or otherwise our young men will have to emigrate.

7. There is an abundance of bait for codfish in the bay, especially lancefish, squid, and clams. Our fishermen on the outside coast frequently came in boats a distance of forty miles to get bait, especially lancefish.

8. The privilege of fishing in American waters is no use to us. If fish were plentiful on their coast, why do they come here? I never knew of any of our fishermen having gone to fish there.

9. The privilege of selling our fish duty free in the United States is no use to us. Our fish, especially codfish, has a more suitable market elsewhere.

I hereby swear that the above statement is, to the best of my knowledge and belief, correct.

DAVID PHILLIPS.

The said David Phillips has sworn to the truth of the above affidavit, at Peninsula, in the county of Gaspé and Province of Quebec, this eleventh day of August, A. D. 1877, before me.

P. FORTIN, *J. P.*

No. 186.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, RICHARD MILLER, of Peninsula, in the county of Gaspé, Province of Quebec, make oath and say as follows:

1. I am 68 years of age. I was born at Peninsula, and have lived here all my life. I have been engaged in fishing for the last forty-nine years, and am practically well acquainted with the cod, herring, mackerel, and halibut fisheries, and for thirty years, that is, of course, thirty summers, I have navigated through the Gulf of St. Lawrence and the Straits of Belle Isle for whale and cod fishing.

I was present when the testimony of Mr. David Phillips was given and sworn to, and the same having been read to me, I fully concur in all the statements and opinions therein contained, and hereby swear that they and what I have above stated are, to the best of my knowledge and belief, correct.

RICHARD MILLER.

The said Richard Miller has sworn that the above affidavit is the truth, at Peninsula, this eleventh day of August, A. D. 1877, before me.

P. FORTIN, *J. P.*

No. 187.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, JAMES ROONEY, of Perce, in the county of Gaspé, make oath and say as follows:

1. I am 52 years of age. I was born in Perce, and have lived here all my life. I began to fish at the age of 17; I afterwards kept a fishery, which I still keep. I am well acquainted with the fisheries of this coast, and along this shore.

2. The fish found here are cod, herring, and mackerel; and the baits, squid, caplin, herring, mackerel, are also taken, generally close to the shore. The herring spawn abundantly along the shore.

3. The fish do not run every year the same, but the general run is about the same, some years more and some years less. I mean the codfish. The bulk of this fish is caught close along shore, that is, within three miles. The fish thus caught inshore is much the best fish; all the fish thus caught along this coast is sold either in Brazil, the West Indies, Spain, Portugal, or the Mediterranean. The Gaspé codfish is the best fish in the market, and commands a higher price, owing to its peculiar preparation. Codfish caught on the Banks and salted on board a vessel could not be dried to suit these markets. During the summer our fish is not kept more than three days in salt before it is exposed to the sun to dry. Codfish spawn in this neighborhood, especially around Bonaventure Island.

4. The habit of the Americans of throwing offal over on the Banks is

injurious to our cod-fishery. It gluts the fish, and they won't bite on the lines. It floats away with the tide and draws the fish off after it.

4. In 1854, and during the continuation of the Reciprocity Treaty, and years of the license system, a large number of American mackerel-fishing vessels were seen all along this coast. They used even to fish in among our boat-moorings for mackerel. I have seen at one and the same time about 30 American mackerel schooners in this neighborhood. I have counted 100 sail in different ports in view at the same time, and I believe that the total annual number that visited this coast during the time named was between 400 and 500. Many of them made two trips. Their tonnage would average from 50 to 150 tons, with from 15 to 20 men, and they took from 400 to 800 barrels. The most of this fish was taken within the three-mile limit. Since the beginning of the Treaty of Washington a considerable number continued to fish for mackerel in our inshores. I should estimate the number to have been from one to two hundred. The habit practiced by the Americans of coming in among our boats fishing for mackerel close inshore, and by throwing out large quantities of bait, thus baiting the mackerel away outside of the reach of our boats, was exceedingly injurious to us and our fishermen.

5. The mackerel spawn along this coast, and the Bay of Gaspé in particular I have seen alive with the mackerel-fry. I have seen the same thing along the coast.

6. The fattest mackerel are always closest to the shore, because there they find the most bait; and this is the case with every kind of fish.

7. The right of fishing on the American coast is of no use to us. We don't want to fish there, and I never knew of any vessel from here having gone there to fish. If there is any fish there, why do they want to come here and fish?

8. Our fish being prepared for warm countries will not find a market in the United States, so that the right of selling our fish duty free in the United States is of no use to us.

9. The right of fishing in our domestic waters, of drying fish on our shores, of taking bait along our beaches, and of transshipping cargoes in our harbors, is a very great privilege to the Americans and of great value to them. It is also a very serious loss and inconvenience to us.

10. Our population is rapidly increasing, and we require all our fisheries for our own fishermen. If the Americans continue to disturb our waters and drain our fisheries in front of our very doors, many of our young men will have to emigrate.

11. Many times I have known people on this coast obliged to keep in their houses, and in some cases to arm themselves for protection, to defend themselves from American fishermen on drunken sprees along shore. They also used to commit trespass, break down our fences, and overrun our fields. I have known of two young girls having been carried off on American vessels against the wishes of their parents.

I hereby swear that the above statement is, to the best of my knowledge and belief, correct.

JAMES ROONEY.

The said James Rooney has sworn to the truth of the above affidavit at Perce, in the county of Gaspé and Province of Quebec, this thirteenth day of August, A. D. 1877, before me.

P. FORTIN, J. P.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, FRANCIS LEBRUN, of Jersey, Channel Islands, at present residing in Perce, the county of Gaspé, of the Province of Quebec, make oath and say as follows:

1. I have been living at Perce since 1857; since that time I have been carrying on the fishing business on my own account. I deal only in codfish, and employ ten boats. I am thoroughly conversant with every operation connected with the taking and curing of fish.

2. The quantity of codfish is as great now as it ever was, although the number of fishermen and the quantity exported have increased very much.

3. All the fish prepared by me are exported either to the Brazils, the West Indies, or to South Europe. The price obtained for this fish varies from \$4.50 to \$8 per quintal.

4. More than three-fourths ($\frac{3}{4}$) of the fish taken on this coast, is taken within the three-mile limit, and the fish taken inshore are always of a superior quality to those taken outside.

5. The baits for cod are herring, caplin, mackerel, launce, smelts, squids and sometimes clams; all these baits are plentiful, and are all taken close inshore; some of them, caplin and launce, are taken from the shore.

6. Since the Treaty of Washington cod and herring are taken in about the same quantities as before. Mackerel this year are very abundant, being much more plentiful than for some years back.

7. The cod and herring spawn on this coast. I have often seen their eggs and then the small fish here.

8. During the years of the Reciprocity Treaty great numbers of American fishermen used to fish for mackerel along this shore. The average number of these American vessels fishing annually in this immediate neighborhood was from 100 to 150, all fishing within the three-mile limit. The tonnage of these vessels ranged from 60 to 150 tons each, manned by from 12 to 20 men. Their catch averaged about 500 barrels each trip. Many of them made two trips, and some even three. Even during the years of the preventative cutters, the Americans still managed to fish in the inshore waters by dodging the cutters.

9. During the first years of the Treaty of Washington, there was still a considerable number of American mackerel vessels seen on this coast.

10. The inshore fishery for mackerel and herring is much more valuable than the outside; in fact these fish are seldom taken far from shore. The relative proportion of the two fisheries is as fifty to one I think.

11. I am aware that the American Bank fishermen are constantly in the habit of coming to the shore to obtain bait, either by taking it themselves, or by buying it from our fishermen. They also obtain ice, in which they preserve this bait.

12. I do not believe that any vessel fishing on the Banks could carry on the fishery with profit, or at all, without the privilege of obtaining fresh bait from the shore, as the supply of bait on the Banks is very uncertain, many vessels being for weeks at a time unable to obtain any.

13. The privilege of entering our harbors to obtain wood and water and to transship cargoes is a very valuable one to the Americans.

14. The privilege of fishing in the United States waters is of no use whatever to us. I never knew of any of our fishermen resorting to those waters to fish.

15. The free market of the United States is also of no value to us.

16. Many disturbances have been caused on shore by the American fishermen. On one occasion they abducted a young girl, a minor, against the consent of her parents; fortunately one of the cutters was near at hand, and, overtaking the American vessel, got back the girl.

17. I consider that much damage is done on the fishing-grounds by the Americans throwing overboard offals. They kill the fish by this practice.

18. The privilege granted to Americans of landing on our shores to dry their nets, cure their fish, of obtaining bait in our inshore waters, as well as of fishing there generally, is one that is exceedingly injurious to us, and of very great value to them.

I hereby swear that the above statement is to the best of my knowledge and belief correct.

FRANCIS LEBRUN.

The said Francis LeBrun has sworn to the truth of the above affidavit at Perce, this 13th day of August, A. D. 1877, before me.

P. FORTIN, J. P.

No. 189.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, WILLIAM JOHNSTONE, of House Harbor, Magdalen Islands, county of Gaspé, Province of Quebec, merchant, make oath and say as follows:

1. Have been acquainted with all the fisheries that are carried on about the Magdalen Islands for the last 27 years.

2. Fishing by the Americans for herring about the Magdalen Islands has been extensively carried on. Their vessels average about 65 tons; the herring vessels have 8 men, and mackerel vessels from 12 to 15 men each for a crew.

3. The American herring fishing vessels take away yearly from the islands about 600 barrels in bulk each.

4. The Americans carry on the herring fishery by means of seines and nets. They are obliged to land in order to fish; they have erected establishments on shore latterly.

5. The practice of throwing the offal of fish overboard, as done by the Americans, is highly injurious to our fisheries, because it gluts the fish, and, decaying on the bottom, poisons the water, driving away the large fish, and killing the young and eggs.

6. During and before the Reciprocity Treaty the Americans have always fished from the beaches about the Magdalen Islands.

7. The inshore fisheries about the Magdalen Islands are of much greater value than the outside.

8. I have seen the Americans many times in each season come in among our boats whilst they were fishing mackerel in Pleasant Bay, and by throwing superior bait entice the fish away with them. These vessels drift in a straight line, and all the boats anchored in their way are obliged to move or be run down.

9. The hauling-seines are used from the shore. The purse-seins are tugged in deep water, but always inshore. The purse-sein is injurious to the fisheries, because it gathers in all kinds of fish, both large and small. The large mackerel only are saved; the others are thrown away dead, which destroys the ground as well as the fishery.

10. The American trawlers resort to the inshores of the Magdalen Islands for bait for their cod fishery.

11. Cod, halibut, and haddock are taken in the inshore waters of the islands by the American fishermen, and also by the Canadians.

12. The food of mackerel is found inshore. It consists of lance, shrimp, sea-leas, and insects adhering to rockweeds. Many breed inshore on sandy and muddy bottom in Pleasant Bay and the small Coves around the Magdalen Islands.

13. I consider it a great advantage to the Americans to be allowed to land to dry and repair their nets, and to cure their fish.

14. The privilege of transshipping cargoes enjoyed by the Americans is a great advantage, because it enables them to keep on the fishing-grounds, and to double their fares during the fishing season.

15. It is a great advantage to the Americans to be able to procure bait in our inshores, either by fishing for or buying it. If they buy it, it is because they find it more profitable, and it saves time.

16. The Americans could not carry on the cod and halibut fisheries about the Magdalen Islands so profitably without being able to resort to our inshores to procure bait.

17. It is of no practical advantage to Canadians to be allowed to fish in American waters. And I don't know of any Canadian vessels ever going there to do so.

18. The privilege of transshipping cargoes to the Americans is worth a load. And the privilege of getting bait in our inshores for their cod and halibut fisheries is worth from 50 to 60 per cent. of these fisheries, which would otherwise not exist.

19. Fishing by Americans in Canadian waters hinders the fishing operations of our fisheries to a great extent. Not only by their practice of enticing the fish away from the boats or by the practice of throwing fish offal overboard on our fishing grounds, but because they are so much better equipped with vessels and fishing-tackle that they take all the best and largest fish, and by superior numbers overpower the boat fishermen.

20. The Americans resorting to our inshores for fishing purposes take advantage of this opportunity to trade with the inhabitants with goods smuggled from the United States, these goods being an extra supply of ships' stores taken on board for that purpose. They give them in exchange for bait and in payment for labor, thereby defrauding the customs, and injuring legitimate trade by regular tax-payers.

W. JOHNSTONE.

Sworn to the best of his knowledge, information, and belief, at Halifax, county of Halifax, Province of Nova Scotia, Dominion of Canada, this 23d day of August, A. D. 1877, before me.

W. D. HARRINGTON,
Justice of the Peace, Province of Nova Scotia.

No. 190.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, CHARLES FOURNIER, of Magdalen River, county of Gaspé, Province of Quebec, fisherman, make oath and say as follows:

1. Have been acquainted with the fisheries on this coast for 22 years.
2. From 1854 to 1866 the fishing by the Americans on this coast has

been very extensive for mackerel between Cape Chat and Magdalen River, a distance of 63 miles.

3. To the best of my knowledge, about 100 vessels have visited these shores yearly during the period mentioned mackerel-fishing.

4. These schooners used to make good voyages yearly, and their cargoes averaged 350 barrels of mackerel each trip. These schooners average about 65 tons, with a crew of about 15 men.

5. The mackerel fishery seems to have decreased, but the cod and herring fisheries are the same as formerly.

6. The Americans take mackerel by means of hand-lines and seines.

7. During the Reciprocity Treaty, on this coast the Americans have always fished for mackerel inshore.

8. It is the common practice of the Americans to come in among our boats, and by throwing bait, entice the fish away with them, thereby causing us a great loss.

9. I know that the American fishermen have used the hauling-seines very often. I once helped to load an American schooner in the Magdalen River with mackerel. They were all taken with a hauling seine inshore.

10. Since 1871 the codfishery has greatly increased. I believe it is owing to the absence of Americans from our waters. Mackerel were very plenty last year, and a great increase over former years.

11. Mackerel feed inshore on lance, sea-fleas, and other small animals.

12. It is a great advantage to Americans to be able to transship cargoes, because it enables them to keep on the fishing grounds and to double and triple their fares.

13. It is of no advantage to us to be able to fish in American waters; and I don't know of any vessel from here ever going there to do so.

14. Fishing by Americans in our waters injures our fishing operations to a great extent. It brings in a competition that we cannot sustain, they having better vessels and better gears.

15. Some years ago three American vessels came and anchored in Magdalen River until they had their full load of halibut. They caught them with trawls, and all inshore.

his
CHARLES + FOURNIER.
mark.

Witness:

A. D. JOHNSTONE.

Sworn to the best of his knowledge, information, and belief, at Magdalen River, county of Gaspé, Province of Quebec, Dominion of Canada, this 27th day of July, A. D. 1877, before me.

L. LAVOIE,
Justice of the Peace, Province of Quebec.

No. 191.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, ALEXIS NOIL, of Fox River, county of Gaspé, Province of Quebec, fisherman, make oath and say as follows:

1. Have been acquainted with all the fisheries on this coast from Griffin's Cove to Chlorydrome, a distance of 33 miles, for the last 30 years. From 1854 to 1866 the fishing by the Americans has been very extensive. The number of American vessels that have visited these shores

for mackerel fishing, during the period mentioned, have been about 150 yearly. The average tonnage of these vessels was about 65 tons, with a crew of about 16 men each. The average cargo of these vessels, yearly, is 350 barrels mackerel. And I have heard the captains of these vessels say that they generally make two trips in a season.

2. The cod and herring fisheries are about the same as they were 20 years ago.

3. The Americans take mackerel by means of seines and hand-lines, principally the latter, and all inshore in 2 or 3 fathoms of water.

4. The throwing of fish offals overboard on the fishing grounds is a great injury to them and the fisheries, because it poisons the water, drives away the large fish, and kills the eggs.

5. The Americans have always fished inshore and made their loads of mackerel. During the Reciprocity Treaty, and before, often very close to the shores.

6. The inshore fishery is by far of greater value than the outside, because all the fish on this coast are caught inshore.

7. I have seen the Americans frequently come in among our boats while they were fishing mackerel and entice the fish away by throwing bait, thereby causing our fishermen great loss. They have done the same to me often.

8. The cod fishery has greatly increased since 1871, owing no doubt to the Americans having left our waters, thereby giving them a chance to restock.

9. I have heard the Americans say many times that our mackerel were better and brought a higher price in their markets than their own.

10. Mackerel feed all along our inshores on lance and other small fish.

11. I have seen the Americans several times setting nets close to our shores for mackerel.

12. It is a great advantage to the Americans to be allowed to transship their cargoes, because it enables them to keep on the fishing grounds and to double their fares.

13. It is of no advantage to Canadian fishermen to be able to fish in American waters, and I never knew of any vessel from here going there to do so.

14. The privilege granted to Americans to transship cargoes is worth a load, and the privilege of getting bait in our inshores for their cod and halibut fisheries is worth these fisheries.

15. Fishing by Americans in our waters hinders the fishing operations of our fishermen to a great extent, because we cannot compete with such well supplied and geared vessels.

his
ALEXIS X NOIL.
mark.

Witness:

A. D. JOHNSTONE.

Sworn to the best of his knowledge, information and belief, at Fox River, county of Gaspé, Province of Quebec, Dominion of Canada, this 27th day of July, A. D. 1877, before me.

N. LAVOIE,
Justice of the Peace, Province of Quebec.

No. 192.

In the matter of the Fisheries Commission at Halifax, under the treaty of Washington.

I, JOHN PACKWOOD, fisherman and farmer, of Cape Rosier, county of Gaspé, Province of Quebec, make oath and say as follows:

1. I am acquainted with all the fisheries carried on on this coast from Cape Gaspé to Griffin's Cove since twenty-five years. During the Treaty of Reciprocity mackerel fishing by the Americans on this coast was very extensive. I mean from 1850 to 1856.

2. I have seen the Americans fishing for mackerel here in Cape Rosier Cove, at Cape Bon Ami, at Jersey Cove, and catching mackerel. I have been on board of their vessels when they were fishing, and I have seen them from the shore and from my boat, and catching mackerel, and always inshore, generally in line with the points. I have seen them yearly during the period mentioned above many times during each season.

3. During the period mentioned, to the best of my knowledge, sixty schooners visited these shores here yearly for mackerel-fishing. These schooners averaged 65 tons, and carried away from here and neighboring places about 400 barrels, for the Americans themselves told me that they always made good voyages.

4. Cod fishery is as good now as formerly; it has increased very much of late. Herring is about the same. Last year there was a good deal of mackerel on our coast.

5. The Americans fished mackerel with hand-lines and seines, but I never saw them use the seine here.

6. The practice of the Americans of throwing fish offals overboard is much injurious to our fishing grounds, because it gluts the fish and prevents the fish from biting; and also because the decaying of these offals poisons the water, drives the large fish away, and kills the eggs.

7. I have never seen the Americans fish here outside of three miles; they have always fished very close to the shores.

8. The value of our inshore fisheries is, by far, greater than the outside ones. All the fish here is caught inshore.

9. Since 1871 the cod fishery has considerably increased here; and I believe, with all the fishermen here, that it is because the Americans have been less in our waters.

10. I have heard many times the Americans say that our mackerel here was larger and of a better quality than their own, and that it is worth \$20 against their own \$10.

11. Mackerel feeds all along our coasts here upon launce, sea-fleas, &c.

12. The fishing by Americans in our waters is extensively injurious to us, because they are supplied so well with every kind of gear to carry on the fisheries of all kinds that we cannot compete with them, so that when they come to fish amongst us they take all the fish before we can take a share.

JOHN PACKWOOD.

Sworn to the best of his knowledge, information, and belief, at Cape Rosier, in the Province of Quebec, Dominion of Canada, this 28th day of July, A. D. 1877, before me.

N. LAVOIE,

Justice of the Peace, Province of Quebec.

No. 193.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, MESIAH TAPP, of Fox River, county of Gaspé, Province of Quebec, fisherman, make oath and say as follows :

1. I am acquainted with all the fisheries that are carried on on this coast for the last 25 years.

2. From 1854 to 1866 the fishing by the Americans was very extensive for mackerel.

3. About 100 American mackerel-fishing vessels have visited these shores yearly during the period mentioned above. These vessels average above 65 tons, having about 16 men for a crew. These vessels carried away from our shores yearly about 400 barrels of mackerel a trip.

4. The Americans take mackerel by means of seines and hand-lines.

5. The practice of throwing fish offals overboard, as done by the Americans, is injurious to the fisheries, because it gluts the fish, poisons the water, and kills the eggs.

6. The Americans have always fished inshore here during the Reciprocity Treaty for mackerel, about one-half mile from the shore.

7. The inshore fisheries are of much greater value than the outside. All the fish here are taken inshore.

8. I have seen the Americans come in among our boats, and by throwing bait entice the mackerel away with them; and I saw them one time throwing ballast rocks at a boat that had gone too near their lines.

9. Since 1871 the cod fishery has increased greatly, and I believe it is owing to the absence of Americans from our waters.

10. I have heard the Americans say frequently that our mackerel were better, and brought a higher price in their markets than their own.

11. Mackerel breed and feed on this coast inshore. Their food is launce and sea-fleas.

12. It is a great advantage to the Americans to be able to transship their cargoes, because it enables them to keep on the fishing grounds, and to double their fares.

13. It is of no advantage to us to be able to fish in American waters, and I don't know of any vessel from here ever going there to do so.

14. The privilege of transshipping cargoes to the Americans is worth a load, and the privilege of getting bait in our inshores for their cod and halibut fisheries is worth these fisheries.

15. The fishing by the Americans in our waters hinders the fishing operations of our Canadian fishermen, because they are better supplied and geared than we are, that they take all the best fish.

his
MESIAH + TAPP.
mark.

Witness :

A. D. JOHNSTONE.

Sworn to the best of his knowledge, information, and belief, at Fox River, County of Gaspé, Province of Quebec, Dominion of Canada, this 31st day of July, A. D., 1877, before me.

N. LAVOIE,
Justice of the Peace, Province of Canada.

No. 194.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

1, JAMES SAMUEL, of Fox River, County of Gaspé, Province of Quebec, fisherman, make oath and say as follows :

1. Have been acquainted with all the fisheries which are carried on on this coast from Griffin's Cove to Chlorydorme, a distance of 33 miles, for 25 years.

The mackerel fishery by the Americans has been very extensive during the Reciprocity Treaty, from 1854 to 1866 and before, on these shores.

2. I have been several times during a season on board of American mackerel-fishing vessels. I have seen them fish, and have fished myself with them. They fished always inshore very close the shore in 2 or 3 fathoms of water.

3. The number of American schooners which have visited these shores for mackerel fishing yearly during the period mentioned above, was about 150. The average tonnage of these vessels is about 65 tons, having about 15 men for a crew each. These vessels have taken away from our shores yearly, at least 350 barrels of mackerel. I have heard the captains of some of these schooners say that most of them were on their second trip. They also told me that their first trip was generally made about the Strait of Canso, Magdalen Islands and Prince Edward Island.

4. The cod and herring fisheries are about the same as formerly.

5. The Americans take mackerel by means of hand-lines and seines. But I have seen them use the hand-lines only on this coast.

6. The throwing overboard of fish offals as practiced by the Americans injures our fishing grounds and fisheries; because it gluts the fish, and then the decaying of these offals poisons the water, driving the large fish away and killing the eggs.

7. The American schooners have always fished inshore during the Reciprocity Treaty and afterwards, and have made their loads of mackerel often very close to the rocks.

8. The inshore fishery is of much greater value than the outside. All the fish on this shore are caught inshore.

9. It is the common practice of the Americans to come in among our boats when we are catching mackerel, and by throwing bait entice the fish outside, where we cannot go.

10. Since 1871 the cod fishery has considerably increased, and it is my opinion that it is owing to the absence of Americans from our waters.

11. I have heard the Americans say frequently that the mackerel caught in our waters were of a better quality than their own, and brought a higher price in their markets.

12. Mackerel feed all along our inshores on lance and shrimp.

13. I have seen the Americans frequently setting their nets close to our shores for mackerel.

14. It is a great advantage to the Americans to be able to transship cargoes, because by doing so it enables them to remain on the fishing grounds and to double their fares.

15. It is of no advantage to Canadians to be able to fish in American waters.

16. The privilege of transshipping cargoes to the Americans is worth a load. And the privilege of getting bait in our inshores for their cod and halibut fisheries is worth these fisheries.

Fishing by Americans in our waters hinders the fishing operations of our fishermen to a large extent, because we are not supplied with vessels and gears to compete with them.

JAMES ^{his} + SAMUEL.
mark.

Witness:

A. D. JOHNSTON.

Sworn, to the best of his knowledge, information, and belief, at Fox River, county of Gaspé, Province of Quebec, Dominion of Canada, this 27th day of July, A. D. 1877, before me.

N. LAVOIE,
Justice of the Peace, Province of Quebec.

No. 195.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, EDWARD TRACHY, of Percé, county of Gaspé, Province of Quebec, fisherman, make oath and say as follows:

1. Am acquainted with all the fisheries on this shore for 60 years past.
2. Between 1854 and 1866, the fishing by the Americans on this coast has been very extensive, between Cape Cove and Cape Percé, a distance of about nine miles.
3. I have seen the American schooners inshore engaged in mackerel fishing. I have been on board their vessels many times, and I have seen them from the shore and from my boat fishing and catching fish between Bonaventure Island and the mainland.
4. About 150 American vessels have visited these shores yearly for mackerel fishing, each vessel averaging about 70 tons, having from 12 to 15 men for a crew each.
5. During that time I have spoken to American captains, and they told me that they had made good voyages, and sometimes two during a season.
6. These schooners have carried away yearly from our shores an average of 500 barrels of mackerel each trip.
7. The fisheries are about the same as they were 20 years ago; but this year the cod fishery has increased greatly.
8. The Americans take mackerel by means of hand-lines. I have never seen them using seines.
9. The Americans, before and during the Reciprocity Treaty, have taken the most of their mackerel inshore.
10. The inshore fishery is of much greater value than the outside on this shore. Herring, caplin, launce, codfish, and the best part of the mackerel are taken inshore.
11. I have been greatly annoyed while out fishing mackerel, by having the Americans come in among our boats, and by throwing bait, entice the mackerel outside with them, where we could not go.
12. I have seen the American fishermen many times come inshore and set nets for bait, and thus taking the bait away from us.
13. I have seen yearly several American schooners come in the cove here for bait; and I remember once of one waiting two days until our fishermen had caught enough bait for her.
14. There is a great increase in the cod fishery since 1871. I think this is owing to the absence of Americans from our waters.

15. The same fish that are taken by the Americans inshore are also taken by the Canadians.

16. Herring are all taken inshore. The Americans catch them for bait only on this coast.

17. It is a great advantage to Americans to be able to land to dry and repair their nets. I have seen them doing so frequently.

18. It is a great advantage to the Americans to be able to drag ship cargoes; because it enables them to keep on the fishing grounds and to double their fares.

19. It is a great advantage to the Americans to be able to procure bait either by catching or buying it. If they buy it, it is because they save time, and more profitable to them.

20. It would be impossible for the Americans to carry on the cod and halibut fishery without being able to procure bait in our inshores.

21. The privilege of transshipping cargoes enjoyed by the Americans is worth a load; and the privilege of getting bait in our inshores for their cod and halibut fisheries is worth these fisheries.

22. Fishing by the Americans in our waters injures our Canadian fishermen very much. I have had my nets badly torn by the American fishing vessels anchoring among them and sailing over them. It is also an injury to us, because it brings in a competition that we cannot sustain. Their vessels and gears are so much better than ours, that they take all the best fish.

EDWARD TRACHY.

Sworn to the best of his knowledge, information, and belief, at Percé, county of Gaspé, Province of Quebec, Dominion of Canada, this 26th day of July, A. D. 1877, before me.

N. LAVOIE,

Justice of the Peace, Province of Quebec.

No. 196.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, EDWARD BUNN, of Fox River, county of Gaspé, Province of Quebec, fisherman, make oath and say as follows:

1. Have been acquainted with all the fisheries on this coast, from Griffin's Cove to Chlorydrome, a distance of 33 miles, for the last 20 years. During the Reciprocity Treaty, the fishing by Americans has been very extensive. The number of American vessels that have visited these shores for mackerel fishing during the period mentioned have been about 150 yearly, these vessels averaging about 65 tons, with a crew of about 15 men. Each vessel takes away from our shores, on an average, 350 barrels of mackerel a trip. They very often make two trips in a season.

2. The Americans take mackerel by means of seines and hand-lines. I never saw them using their seines on this coast. They take all their mackerel inshore in two or three fathoms of water.

3. The throwing of fish offals overboard as practiced by the Americans is a great injury to the fisheries, because it poisons the water on our fishing-grounds, driving away the large fish and killing the eggs.

4. The Americans have always fished inshore during the Reciprocity Treaty, and always made their loads of mackerel, and often very close to the shore.

5. The inshore fishery is of much greater value than the outside. All the fish on this coast are caught inshore.

6. It is the common practice of the Americans to come in among our boats, and by throwing bait entice the mackerel outside out of our reach.

7. Since 1871, the cod fishery has greatly increased.

8. The same fish that are caught by the Americans inshore are also taken by the Canadians.

9. I have heard the American fishermen say that our mackerel were better, and brought a higher price in their markets than the mackerel caught in their own waters.

10. Mackerel feed along our inshores on launce, shrimps, and sea-fleas.

11. I have seen the American fishermen frequently setting their nets close to our shores for mackerel.

12. It is a great advantage to the Americans to be able to transship cargoes, because it enables them to keep on the fishing-grounds, and to double their fares.

13. It is of no advantage to Canadian fishermen to be able to fish in American waters, and I don't know of any vessels from here going there to do so.

14. The privilege granted to Americans to transship cargoes is worth a load, and the privilege of getting bait in our inshores for their cod and halibut fishery is worth these fisheries.

15. Fishing by Americans in our waters hinders the fishing operations of our fishermen to a great extent, because their vessels are so much better equipped than ours, that they always take the best fish.

EDWARD ^{his} + BUNN.
mark.

Witness :

A. D. JOHNSTONE.

Sworn to the best of his knowledge, information, and belief, at Fox River, county of Gaspé, Province of Quebec, Dominion of Canada, this 27th day of July, A. D. 1877, before me.

N. LAVOIE,
Justice of the Peace, Province of Quebec.

No. 197.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, JOSEPH D. PAYSON, of Westport, in the county of Digby, make oath and say as follows :

1. I have been engaged in the fisheries twenty years ; two years on board of American fishermen in Canadian waters.

2. American vessels to the number of three and four hundred annually fish in the Bay de Chaleur for mackerel ; the average number of men is from twelve to fourteen to each vessel. This is within my knowledge for the past twelve years.

3. The average number of codfish taken by Americans is about twelve hundred quintals to each vessel ; and besides that, they annually make a mackerel trip of from three to five hundred barrels of mackerel.

4. The present condition of the fishery is not as good as it was in the

past for either codfish or mackerel. Herring have not decreased as much, but they also are not as good as the past.

5. Americans carry on the codfish and halibut fishery chiefly with trawls; they do some by hand-line on George's. Mackerel are caught by seines and hook and line.

6. Most of the mackerel caught in the Bay de Chaleur are caught within three miles from the shore, and have been before and during the Treaty of Washington, by large numbers of American fishermen.

7. The American fishermen use what is called "purse-seines," and are ruining the mackerel-fishery wherever they are used, by driving the fish from the shores.

8. American fishermen catch bait within three miles from the shores in Saint Mary's Bay, but not very large quantities.

9. American fishermen trawl for halibut and codfish in the Bay of Fundy in the inshore waters. Halibut, codfish, haddock, hake, and pollock are caught inshore by Canadian fishermen.

10. Since the Treaty of Washington there has been a decrease in all kinds of fish in the Bay of Fundy, caused principally by trawling, and by the large quantity of fish-offal thrown over by the fishermen from the vessels.

11. The herring-fishery is greater inshore than outside in Canadian waters. Americans catch herring for bait and for sale at Magdalen Islands. The American fishermen catch some herring for bait in the Bay of Fundy.

12. There are a few mackerel caught in American waters at some seasons of the year that command a higher price in the American market, but my opinion is that mackerel caught in the Bay de Chaleur are quite as good and usually bring about the same price in the American market.

13. The food of mackerel is found chiefly inshore, called "brit"; they breed in the head of the bays; their principal breeding and feeding places are inshore.

14. The privilege of transshipping cargoes enjoyed by American fishermen since the Treaty of Washington is a very great advantage to them; it enables them to catch a much larger quantity of fish.

15. It is a very great advantage to Americans to procure bait from the Canadian inshores. They prefer to buy it, as it saves time.

16. The American fishermen could not carry on the cod and other fisheries of the deep sea to any extent, or with any profit, without the privilege of resorting to our inshores for bait.

17. It is a great advantage to Americans to resort to Canadian inshores for ice to preserve bait. Quite a number of American vessels have been supplied with ice at Westport this present season.

18. The privilege of fishing in American waters is of no practical value or advantage to Canadians.

19. If it was not for the large fleet of American fishermen in Canadian waters, a large and very profitable business could be done by Canadian fishermen.

The foregoing statement is correct, to the best of my knowledge and belief.

J. D. PAYSON.

Sworn to at Westport this 11th day of August, A. D. 1877, before me.
BENJ. H. RUGGLES, J. P.

No. 198.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

1. THOMAS C. COOK, Cape Canso, in the county of Guysboro', merchant, make oath and say as follows :

1. I have been engaged in the fisheries actively for the period of twenty-five years. During that time I have been engaged in the fish trade, buying and selling and carrying on a general fish business.

2. During prosperous years, as many as three or four hundred American vessels, I understand, are engaged in the mackerel fishing in the North Bay. Each vessel would average from twelve to fifteen men. The American vessels now fishing are larger and better than those formerly used. Each vessel fits out to take three hundred barrels on an average.

3. I have known from two to three hundred American vessels call at Canso during the season for bait. To make up this number, I count several calls by the same vessel. I have known them hook squid inshore, but not much. They generally buy it, because it pays them best and saves them time.

4. The inshore fisheries are of greater value to the inhabitants along the coast than those outside. All kinds of fish are caught inshore by our fishermen. Our people do not, in the county of Guysboro', prosecute the outshore fishery almost altogether.

5. The opportunity given to the Americans of transshipping their cargoes is of great advantage to them ; also the privilege of getting bait and ice. They are enabled, by having these privileges, to make more trips and catch more fish. Bait can be bought cheaper in Canadian ports than in the United States. Ice also, I think.

6. American fishermen could not so profitably carry on the deep-sea fisheries if they were not permitted to land and buy their bait and ice, otherwise they would not land and do so.

7. Never heard of any Canadian vessels fishing in American waters.

THOS. C. COOK.

Sworn to at Canso, in the county of Guysboro', this 25th day of July, A. D. 1877, before me.

JAMES A. TORY, *J. P.*,
For the County of Guysborough.

No. 199.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

1. W. WYSE, of Chatham, in the county of Northumberland, in the Province of New Brunswick, at present of Chatham, merchant, maketh oath as follows :

1. I have been in business for five years in Chatham, and have had business with fishing parties around our coast previous to '72 and since 1854. I have had charge of a salmon-preserving establishment on Fox Island, Miramichi Bay, and exported salmon in tins to amount of from 8 to 10,000 per annum, also lobster and mackerel to amount of about 1,000 dollars per annum ; also during this time American fishermen have been accommodated on this island with water and other matters

necessary for the carrying on of their fisheries. This of itself was, I consider, a very great advantage to them generally.

2. I have been acquainted with the British fisheries in New Brunswick during the time I was engaged at my fishing establishment, say in each year from 15th May till 15th September. I have seen and counted in that time as high as 170 sail, partaking of all the benefits of the three-mile limit as much as if they were Canadian fishermen. I have seen them in a fine morning after a storm in our bay, between Portage and Badwin Island, for a whole day, and in that time a splendid fishing has been done. This was at a time they had no right to fish within the three-mile limit. This bay was their chief place of resort, and they had all the benefit of our buoys, lights, and every convenience. This valuable acquisition should be of a large value to American fishermen, and no benefit to us. I am quite sure the average of each vessel would be about four hundred and fifty barrels a voyage.

3. The effect of so large a fleet of American vessels fishing in British waters, and only one mile from Fox Island shore, was most injurious to our mackerel fishermen around the islands, as they would throw bait and draw them off.

4. The mode of fishing at that time was with hook and line. Since that period a seine, or purse-seine, is used, and large catches are made.

5. During the time I was engaged in fishing at Fox Island, a gradual falling off took place with the fleet; whether it was owing to finding other places more profitable, I could not say.

6. I would judge by the movements of the fleet, fully two-thirds of the fish were taken within the three-mile limit.

7. In the year I was on Fox Island, American fishermen had all the benefit of buying bait, getting fresh supplies, fresh water, wood, &c. This I consider a great benefit. At one time, when procuring these necessities at Badwin Island, they set on fire and burned about twenty acres of marsh and woodland, whether accidentally or not could not be ascertained. Damages were put down at the time about \$600.

8. The privilege of landing cargoes and transshipping to their own homes during the season is very great. It enables them to make two trips a season with ease. This privilege is worth about \$400 per trip.

9. I have not seen them fish for bait, but have sold them pogies. These are a fish about half the size of herring, and as fat as butter. When ground up, make good article of bait. They have bought our spring herring often.

10. Mackerel has decreased in quantity along the Miramichi Bay and coast, as our own shore fishermen say they are much more scarce of late years, and cannot account for the fact. Ten years ago establishments made it their business to buy mackerel for canning purposes, and preserved yearly from ten to fifteen thousand lbs.; now, and the last five years, they are all closed.

11. The food of mackerel is chiefly got along the shores. Small fry of the different species are their chief food. Their principal breeding places are along Bay Cheleurs and other places along Prince Edward Island and Gulf of St. Lawrence.

12. I consider the privilege granted to American fishermen to land and dry their nets invaluable.

13. I consider the privilege of fishing in American waters of no account or value to Canadians whatever.

14. The value of transshipping cargoes, and getting bait, &c., is worth about \$400 per trip.

15. I believe it has hurt our shore fisheries to a considerable extent; could not say the value.

16. It is true that United States fishermen have sold goods to our fishermen, and evaded the duty.

17. Another advantage the Americans have enjoyed is the Miramichi lights, our coast lights, harbor buoys, shelter from storms, getting fresh supplies, fuel, water; in fact, it is impossible to enumerate all the advantages and value of these privileges. Look at the protection of our rivers, the expense connected with protecting the spawning fish, the fry of which all serve to feed our deep-sea fisheries.

WILLIAM WYSE.

Sworn before me at Chatham this 11th day of August, A. D. 1877.

G. W. BLAIR, *J. P.*

No. 200.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, JAMES FLYNN, the elder, of Percé, county of Gaspé, Province of Quebec, planter, do make oath and say as follows:

1. I have been acquainted with the various fisheries on this coast for upwards of 40 years.

2. During the duration of the Reciprocity Treaty a large fleet of American vessels frequented this coast for fishing purposes, say from Point St. Peter's to Cape Despair, a distance of 18 miles or thereabout.

3. I have often seen the American schooners close to the shore mackerel fishing. I have often seen them fishing from shore, and catching mackerel in the channel between this and Bonaventure Island.

4. Upwards of 100 vessels or American schooners have fished mackerel in this vicinity each season. These schooners average about 70 tons, with a crew of about 12 or 14 men.

5. The fisheries generally speaking are much the same as heretofore. But the cod fishery has greatly increased this summer.

6. Mackerel is caught by the Americans both with hand-lines and seines.

7. The Americans previous to and during the Reciprocity Treaty took most of their fish inside of the limits.

8. The inshore fishery is decidedly the most valuable, as herring, caplin, lance, smelt, fully two-thirds of the mackerel, and the greater portion of the codfish, are taken inshore.

9. It was a common complaint with our fishermen that the American schooners came inshore and enticed away the mackerel by feeding them, thus preventing our people from catching any more.

10. I have also heard our fishermen complain that the Americans came inshore to set their nets for bait, thus preventing their obtaining a sufficiency.

11. I have on several occasions seen American schooners come into the coves and set their nets for bait.

12. The several kinds of fish taken inshore by the Americans are also taken by our fishermen.

13. A great increase has taken place in the cod fishery since 1871, caused no doubt by the absence of the Americans from our waters, thus allowing our fishing-grounds to be restocked.

14. Herring are all caught inshore, the Americans catching them for bait only.

15. I have often heard the remark made by persons who have heard the Americans say that the quality of our mackerel was superior to theirs, realizing a higher price in their market.

16. It is undoubtedly a source of great advantage to the Americans to be allowed to land, dry, and repair their nets.

17. The transshipment of cargoes will be a great advantage to the Americans, as it will enable them to keep on the fishing grounds and double their fares.

18. The procuring of bait, either by catching or buying, is also a great advantage for American fishermen. If they buy, it is in order to save time.

19. The Americans could not carry on the cod and halibut fisheries without procuring bait within our limits.

20. The privilege of transshipping cargoes, as now to be enjoyed by the Americans, will be equal to one load; and that of getting bait for their cod and halibut is equal to the value of those fisheries.

JAMES FLYNN.

Sworn to the best of his knowledge, information, and belief, at Percé, county of Gaspé, Province of Quebec, Dominion of Canada, this 25th day of July, A. D. 1877, before me.

R. N. DUVAL,

Justice of the Peace, Province of Quebec.

No. 201.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, EDMUND FLYNN, of Percé, county of Gaspé, Province of Quebec, planter, and mayor of Percé, do make oath and say as follows:

1. I have been acquainted with the various fisheries on this coast upwards of 35 years.

2. During the existence of the Reciprocity Treaty a large fleet of American vessels frequented this coast for fishing purposes.

3. I have often seen the American schooners close inshore mackerel fishing. I have seen them catching mackerel in the channel between this and Bonaventure Island.

4. I have seen as many as 50 to 100 American schooners during several successive seasons mackerel fishing in this vicinity. These schooners average about 70 tons—each crew consisting of from 10 to 14 men.

5. I have often spoken to American captains, who stated they generally made good voyages—making two, and I believe in some cases three, voyages during each season.

6. These schooners would, on an average, take 400 barrels of mackerel from our shores each trip.

7. The fisheries are, generally speaking, much the same as heretofore; but the cod-fishery has greatly increased this summer.

8. Mackerel is caught by the Americans both with hand-lines and seines.

9. The Americans previous to and during the Reciprocity Treaty caught most of their fish within the limits.

10. The inshore fishery is decidedly the most valuable, as herring, caplin, smelt, launce, fully two-thirds of the mackerel, and the greater portion of the codfish are taken inshore.

11. It was always a common complaint with our fishermen that the

American schooners came inshore and enticed the mackerel away by feeding them, thus preventing our people from catching any more.

12. I have also heard our fishermen complain that the Americans came inshore to set their nets for bait, thus preventing them from obtaining a sufficiency.

13. I have often seen American schooners come into the coves and set their nets for bait.

14. The various kinds of fish taken inshore by the Americans are also taken by our fishermen.

15. A great increase has taken place in the cod fishery since 1871, caused no doubt by the absence of the Americans from our waters, thus allowing our fishing grounds to be restocked.

16. Herring are all caught inshore, the Americans catching them for bait only on this coast.

17. I have heard it stated that our mackerel is superior to the American, but am not personally cognizant of the fact.

18. It is undoubtedly a source of great advantage to the Americans to be allowed to land, dry and repair their nets on this coast.

19. The transshipment of cargoes will also be a great advantage to the Americans, as it will enable them to keep on the fishing grounds and thus double their fares.

20. The catching or buying of bait is also a great advantage for American fishermen. When they buy, it is to save time.

21. The Americans could not carry on the cod and halibut fisheries without procuring bait within our limits.

22. The privilege of transshipping cargoes, as now to be enjoyed by the Americans, will be equal to one load, and that of getting bait for cod and halibut is nearly equal to the value of those fisheries.

23. Fishing in our waters by the Americans is, and always has been, a serious injury to our fishermen, who cannot cope with them on account of the superiority of their vessels and fishing gear.

EDMUND FLYNN.

Sworn to the best of his knowledge, information, and belief, at Percé, county of Gaspé, Province of Quebec, Dominion of Canada, this 28th day of July, A. D. 1877, before me.

R. N. DUVAL,

Justice of the Peace for the Province of Quebec.

No. 202.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, JOHN VARDON, of Mal Bay, in the county of Gaspé, province of Quebec, planter, and justice of the peace, do make oath and say as follows:

1. I have been engaged in and am intimately acquainted with the various fisheries on the coast of Gaspé, and those of the north shore of the St. Lawrence, upwards of 48 years.

2. Previous to and during the existence of the Reciprocity Treaty a large fleet of American schooners frequented our coast for fishing purposes.

3. I have often seen the American schooners close inshore catching mackerel, and should say that I have seen as many as one hundred sail at one time in Mal Bay.

4. During many successive seasons I have seen from 100 to 150

American schooners mackerel fishing in this vicinity. These schooners are from 50 to 100 tons, some even larger, and are manned by 10 to 15 men.

5. The American captains to whom I have spoken told me they generally made good voyages, generally two, but even three voyages during each season.

6. These schooners would, on an average, take from 400 to 500 barrels of mackerel from our shores each trip.

7. The fisheries are much the same, generally speaking, as in times past, but the cod fishery has greatly increased this season, and is far beyond an average so far.

8. The mackerel is caught by the Americans both with seines and hand-lines.

9. The Americans have, in my opinion, always taken most of their fish within the limits.

10. The inshore fishery is by far the most valuable, as herring, caplin, smelt, clams, launce, at least two-thirds of the mackerel, and a great portion of the codfish are taken within the limits.

11. It has always been a common complaint with our fishermen that American schooners came inshore and enticed the mackerel away by feeding them, thus preventing our fishermen from catching any more.

12. Another complaint with our fishermen has always been that the Americans came inshore to set their nets for bait, thus preventing them from getting sufficient for their own wants.

13. I have often seen American schooners come into Mal Bay to set their nets for bait.

14. Our fishermen catch the same fish as are taken by the Americans along our shores.

15. The absence of American fishermen from our waters since 1871 has no doubt been the main cause of the increase of the cod fishery, as they have thus allowed our fishing grounds to be restocked.

16. Herring are all caught inshore, those caught by the Americans on this coast being for bait only.

17. I have always understood from the Americans that our mackerel was of superior quality to their own, and fetched a better price in the American markets.

18. There can be no doubt that the right to land, dry, and repair nets on our coast will be an important benefit to the Americans.

19. The transshipment of cargoes will also be an important advantage to the Americans, as it will enable them to keep on the fishing grounds, and thus double their fares.

20. The buying and catching of bait is also a great benefit to the Americans. When they buy, it is in order to save time.

21. The Americans could not carry on the cod and halibut fisheries to advantage without the privilege of procuring bait within the limits. Halibut is generally caught within a mile of the coast along the north shore of the St. Lawrence.

22. The right to fish in our waters by Americans is, and must ever be a serious injury to our fishermen, who cannot cope with them, on account of the superiority of their vessels and fishing gear.

JOHN VARDON, J. P.

Sworn to the best of his knowledge, information, and belief, at Perce, county of Gaspé, Province of Quebec, Dominion of Canada, this 1st day of August, A. D. 1877, before me.

JAMES ALEXANDER,

Justice of the Peace, Province of Quebec.

No. 203.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, GEORGE DUMARESQ, of Fox River, county of Gaspé, Province of Quebec, merchant, make oath and say as follows:

1. I am acquainted with all the fisheries carried on on this coast and on the shores of the Gulf of St. Lawrence for the last 34 years.

2. During the Reciprocity Treaty, from 1854 to 1866, and previous to that time, mackerel-fishing by the Americans on these shores, from Cape Rosier to Mont Louis, and also in the Bay of Gaspé, has been very extensive.

3. During the period just mentioned, an average of 150 schooners have visited our shores here yearly for mackerel-fishing. These vessels averaged 70 tons, with a crew of 15 men.

4. These vessels made yearly a good voyage on these shores. I heard the Americans say so many times, and that often they were making two voyages.

5. American fishermen have acknowledged before me that yearly these schooners that visited our shores here for mackerel, carried away from 400 to 500 barrels of that fish. I have known vessels taking 250 barrels of mackerel in three days, and very close to the shore at about 4 and 5 fathoms of water, near Fox River.

6. The cod fishery is as good now as it was formerly.

7. The Americans catch mackerel with hand-lines and seining. I have seen them fishing, and catching fish with both. I have never seen the Americans fishing elsewhere on these coasts than inside the three miles.

8. The practice of American fishermen of throwing fish offals overboard is very injurious to our fishing grounds in several ways; in the first place it feeds the fish too much, thus preventing the fish from taking bait; also the putrid offals upon which the fish feeds on the bottom must be injurious to the mother fish, thereby destroying the fry.

9. On these shores the Americans have always fished inshore. I have seen them fishing inshore continually during the Reciprocity Treaty. I have seen vessels loaded. I have not seen them seining elsewhere than in Gaspé, but I have seen seines on board of several vessels.

10. The inshore fisheries are by far of a greater value than the outside ones. All the fish here are caught inshore.

11. I am aware that the Americans have been in the habit of using artificial bait when they came to fish among our own boats, and the moment that bait was thrown out mackerel would suddenly rise to the surface, and after them, making good catches. The Americans would leave for deep water, and no more mackerel was to be caught inshore. I am aware, also, that Americans have threatened to stone, and did stone, too, our fishermen in their boats, because they say our fishermen were interfering with their fishing.

12. This practice has been carried on during all the time the Americans have visited our coasts for mackerel fishing, and this was at a time of the cod fishery when mackerel as bait was most needed.

13. The Americans use both hauling and purse seines, both of which, in my opinion, are injurious to the fisheries in this respect, that it takes all size of fish, a part of which they do not save, being of no market value.

14. The cod fishery has rather increased since 1871; herring keeps

about the same. The increase of codfish in my opinion is greatly due to the fact that the Americans have retired from our waters.

15. I have heard American fishermen say that our number one mackerel was superior to theirs, and reached a higher price in their market than their own.

16. Mackerel feeds on shrimps, launce, and fry of other fish. The food of mackerel is all inshore; that is what keeps mackerel inshore on these coasts.

17. It is a great advantage for Americans to be able to land on our shores, and to dry their nets and cure their fish.

18. It is a great advantage to Americans to be able to transship their cargoes, because it enables them to remain on the fishing grounds and to double their fares.

19. It is a great advantage to Americans to be allowed to procure bait inshore by catching it, or by buying it; and if they buy, it is because it is more profitable to them.

20. It is not an advantage to us to be allowed to fish in American waters.

21. The privilege of the Americans of transshipping their cargoes on our inshores is worth to them another voyage, perhaps two.

22. The Americans would not carry on halibut or cod fishery profitably in our waters if they were not allowed to procure bait in our inshores.

23. The privilege of being allowed to get bait inshore for cod or halibut fishing by the Americans, is equal to their fisheries of cod and halibut.

24. The fishing by the Americans in our waters injures our fishing operations greatly, because it brings in a competition that we cannot sustain, the Americans being so well supplied and fitted out with vessels and fishing gears, that on the fishing grounds they take the best fish. Besides, with their large seines seining for mackerel, as I have seen them in Gaspé Bay, have prevented our fishermen from taking bait for cod-fishing.

25. The Americans being allowed to catch their bait themselves, this practice is an injury to our own fishermen, because it restrains their trade of bait.

GEORGE DUMARESQ.

Sworn to the best of his knowledge, information, and belief, at Fox River, county of Gaspé, Province of Quebec, Dominion of Canada, this 31st day of July, 1877, before me.

N. LAVOIE,

Justice of the Peace, Province of Quebec.

No. 204.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, ALEXANDER CAMPION, of Magdalen River, county of Gaspé, Province of Quebec, fisherman, make oath and say as follows:

1. Am acquainted with all the fisheries on this coast for the last thirty years.

2. From 1854 to 1866 the fishing by the Americans has been very extensive for mackerel between Cape Chat and Magdalen River, a distance of 63 miles.

3. To the best of my knowledge about 100 vessels have visited these shores yearly during the period mentioned, mackerel-fishing.

4. Have been piloting American fishing-schooners on this shore and on the north shore for three or four seasons, during the Reciprocity Treaty. I have seen them fishing and catching mackerel, and I have caught mackerel whilst in their employ, and always very close the shore, sometimes so close that I could step on shore from the schooner.

5. These schooners used to make good voyages yearly, previous to 1865, and their cargoes yearly averaged 300 barrels of mackerel each trip. These schooners averaged about 65 tons, with a crew of about 16 men.

6. The mackerel fishery seems to have decreased, but the cod and herring fisheries are the same now as formerly.

7. The Americans take mackerel by means of hand-lines and seines. During the Reciprocity Treaty each schooner had boats which they sent to fish inshore.

8. The throwing overboard of fish offals, as practiced by the Americans, injures the fishing grounds very much, because it gives too much nourishment to the fish, and because it poisons the water, drives away the large fish, and kills the eggs.

9. I have never seen the Americans fishing for mackerel other than inshore, during the Reciprocity Treaty and before, on this shore.

10. The inshore fishery is by far of greater value than the outside. All the fish are taken inshore there.

11. Many times, whilst I was fishing mackerel inshore, the Americans have come in among our boats, and by throwing bait, enticed the mackerel away with them, and thereby causing us great loss.

12. I know that the American fishermen have used the hauling-seines very often for mackerel. I have seen them using seines at the Cove, Mount Louisa, and at river a la Pierre. And one time there was so much mackerel in the bunt of the seine that it ruptured, and they lost all. The seines they used were hauling-seines; they hauled them from the shore.

13. The hauling-seines destroy more mackerel than the lines.

14. Since 1871, salmon and codfish have increased greatly. I believe it is owing to the absence of Americans from our waters. There was also a great quantity of mackerel on these shores last year, and a great increase over former years.

15. I have heard the Americans say frequently that our mackerel were of a better quality than their own, and reached a higher price in their markets.

16. Mackerel feed inshore on launce and other small fish; also on sea-fleas, which are plenty on this shore.

17. It is a great advantage to Americans to be able to transship their cargoes, because it enables them to keep on the fishing grounds and to double their fares.

18. It is of no advantage to us to be able to fish in American waters, and I never knew of any vessels from here ever going there to do so.

19. Fishing by Americans injures the fishing operations of our fishermen to a great extent. Without considering injuries actually done to our own fishermen, by enticing the fish out of their catch, and the injury done to their nets by sailing over them and spoiling them, the privilege granted to Americans of fishing in our waters brings in a competition that we cannot sustain, they being better equipped and geared than we are, so that they take all the best fish.

ALEX. CAMPION.

Sworn to the best of his knowledge, information, and belief, at Magdalen River, county of Gaspé, Province of Quebec, Dominion of Canada, this 27th day of July, A. D. 1877, before me.

N. LAVOIE,
Justice of the Peace, Province of Quebec.

No. 205.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, ALEXIS MALOUIN, of Griffin's Cove, county of Gaspé, Province of Quebec, fisherman, make oath and say as follows:

1. Have been acquainted with all the fisheries that are carried on on this coast and on the shores of the Gulf of St. Lawrence for the last 30 years.

2. During the Reciprocity Treaty, from 1854 to 1866, the fishing by the Americans has been very extensive on these shores.

3. To the best of my knowledge, about 100 American fishing vessels have visited these shores for mackerel, yearly, during the Reciprocity Treaty. These vessels average about 65 tons, having about 16 men for a crew each. Each of these vessels have carried away from our shores about 400 barrels of mackerel at a trip, yearly. The most of these vessels make two trips in a season.

4. The Americans take mackerel by means of seines and hand-lines. I have seen them seining several times in this cove and catching fish.

5. The throwing of offals overboard, as practiced by the Americans, is injurious to our fisheries, because it gluts the fish, poisons the waters, and kills the eggs.

6. The Americans have always fished inshore here during the Reciprocity Treaty, often inside of half a mile.

7. The inshore fishery is of much greater value than the outside. All the fish here are taken inshore.

8. I have seen the Americans several times each season during the Reciprocity Treaty come in among our boats, and by throwing bait, entice the mackerel away with them. They have done it to me frequently.

9. I have heard the Americans say many times, that our mackerel were better and brought a higher price in their markets than their own.

10. Mackerel breed and feed all along our inshores. They feed on lance and shrimps.

11. It is a great advantage to the Americans to be allowed to land to dry and repair their nets. I have seen them frequently doing so.

12. The Americans could not profitably carry on the cod and halibut fisheries without being able to procure bait in our inshores.

13. It is a great advantage to the Americans to be able to transship cargoes; because it enables them to keep on the fishing-grounds and to double their fares.

14. It is a great advantage to the Americans to be able to procure ice in our inshores to preserve their bait.

15. The privilege of transshipping cargoes to the Americans is worth a load; and the privilege of procuring the bait in our inshores, for their cod and halibut fisheries, is worth these fisheries.

16. Fishing by Americans in our waters hinders our fishing operations, because they are so much better equipped than we are, that they take all the best fish.

ALEXIS MALOUIN.

Sworn to the best of his knowledge, information, and belief, at Griffin's Cove, county of Gaspé, Province of Quebec, Dominion of Canada, this 31st day of July, A. D. 1877, before me.

N. LAVOIE,
Justice of the Peace, Province of Quebec.

No. 206.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, CHARLES GAUL, of Douglas Town, County of Gaspé, Province of Quebec, fisherman, make oath and say as follows :

1. Am acquainted with all the fisheries that are carried on in this bay for the last 30 years.

2. From 1854 to 1866, and before, the fishing by the Americans was very extensive for mackerel in the Bay of Gaspé.

3. During the Reciprocity Treaty, about 100 American vessels on an average have visited these shores for mackerel fishing. These vessels averaged about 70 tons, having a crew of about 15 men.

4. During the period mentioned above, the American fishing schooners made good trips yearly, and very often they make two voyages in a season. They carry away from our shores about 400 barrels each trip yearly on an average.

5. The cod and herring fisheries are as good now as they were formerly.

6. The Americans take mackerel by means of seines and hand-lines. I have seen the Americans seining in this bay at Sandy Beach.

7. The throwing of fish offals overboard as practiced by the Americans is injurious to the fisheries, because it poisons the fishing-grounds, drives the fish away, and kills the eggs.

8. The Americans fished all inshore in this bay during the Reciprocity Treaty.

9. Our inshore fisheries are of much greater value than the outside. All the fish are caught inshore in this bay.

10. I have seen the Americans many times come in among our boats and entice the mackerel away from us by throwing bait; and when we went to follow their vessels they threatened to sink us with ballast rocks.

11. The practice of seining is injurious to the fisheries, more especially the purse-seine, because it takes all kinds of fish, both large and small, and the latter are all thrown away.

12. The same fish that are taken inshore by the Americans are also taken by the Canadians.

13. There has been a great increase in the cod-fishery since 1871, and the mackerel are more plenty this year than they have been for many years past.

14. The Americans take herring inshore here for bait only.

15. Mackerel breed and feed in this bay; their food is launce, shrimps, &c.

16. It is a great advantage to the Americans to be allowed to land to dry and repair their nets.

17. It is a great advantage to the Americans to be able to transship cargoes, because it enables them to keep on the fishing grounds, and to double their fares.

18. It is a great advantage to the Americans to be able to procure bait

in our inshores, either by fishing for or buying it. If they buy it, it is because they save time, and they find it more profitable to them.

19. The Americans could not carry on the cod and halibut fisheries so profitably if they could not get bait in our inshores.

20. It is a great advantage to the Americans to be able to procure ice in our inshores to preserve their bait.

21. It is of no advantage to us to be able to fish in American waters.

22. The privilege of transshipping cargoes to the Americans is worth a load, and the privilege of getting bait in our inshores for their cod and halibut fisheries is worth these fisheries.

23. Fishing by Americans in our waters hinders the fishing operations of our fishermen to a great extent; their vessels are so much better than ours, and their gears also, that they take all the best and largest fish.

CHARLES GAUL.

Sworn to the best of knowledge, information, and belief, at Douglas Town, county of Gaspé, province of Quebec, Dominion of Canada, this 29th day of July, A. D. 1877, before me.

N. LAVOIE,

Justice of the Peace, Province of Quebec.

No. 207.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, ROBERT TAPP, of Fox River, county of Gaspé, Province of Quebec, fisherman, make oath and say as follows:

1. Have been acquainted with all the fisheries which are carried on on this coast for thirty years.

2. During the Reciprocity Treaty, from 1854 to 1866, the mackerel-fishing by the Americans was very extensive on this coast.

3. During the period above mentioned, about 150 American vessels have visited these shores for mackerel-fishing yearly. These vessels averaged about 65 tons, having about 15 men for a crew. They carry away from our shores about 400 barrels of mackerel at a trip, yearly. All that I have seen make two trips in a season.

4. Cod fishery is about the same as formerly; herring also.

5. The Americans take mackerel by means of seines and hand lines. I have seen the seines in their vessels, but never saw them using them.

6. The practice of throwing offals of fish overboard, as done by the Americans, is injurious to our fisheries; because it gluts the fish, poisons the fishing-grounds, and kills the eggs.

7. During the Reciprocity Treaty the Americans have always fished inshore, and very close to the shore.

8. The inshore fishery is of much greater value than the outside. All the fish here are taken inshore.

9. It was the common practice of the Americans to come in among our boats, and, by throwing bait, entice the mackerel away with them. They have done this to me several times in a season.

10. The cod fishery has greatly increased since 1871, owing, I believe, to the absence of Americans from our waters.

11. I have heard the Americans say frequently that our mackerel were better, and reached a higher price in their markets, than their own.

12. Mackerel feed all along our inshores on launce and sea-fleas.

13. I have seen the Americans several times setting nets close to the shore for bait, for their cod and mackerel fishery. It is a great advantage to the Americans to be allowed to land to dry and repair their nets.

14. It is a great advantage to the Americans to be able to transship their cargoes; because it enables them to keep on the fishing-grounds and to double their fares.

15. It is of no advantage to us to be able to fish in American waters, and I never knew of any vessel from here going there to do so.

16. The privilege of transshipping cargoes to the Americans is worth a load; and the privilege of getting bait in our inshore for their cod and halibut fisheries is worth these fisheries.

17. The fishing by the Americans in our waters hinders the fishing operations of our Canadian fishermen to a great extent, because they are so much better geared and supplied than we are that they take all the best fish.

his
ROBERT + TAPP.
mark.

Witness:

A. D. JOHNSTONE.

Sworn, to the best of his knowledge, information, and belief, at Fox River, county of Gaspé, Province of Quebec, Dominion of Canada, this 30th day of July, A. D. 1877, before me.

N. LAVOIE,
Justice of the Peace, Province of Quebec.

No. 208.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, LUKE MCCAULEY, of Douglas Town, county of Gaspé, Province of Quebec, fisherman and farmer, make oath and say as follows:

1. Have been acquainted with the fisheries that are carried on on this coast for the last thirty years. That is to say, the Bay of Gaspé.

2. During the Reciprocity Treaty, and before, the fishing by the Americans was very extensive for mackerel in the Bay of Gaspé, at Griffin's Cove, Cape Rozier, Cape Bon Ami, &c.

3. The average number of American vessels that have visited these shores for mackerel-fishing yearly have been about 100, between 1854 and 1866. The average tonnage of these vessels was about 70 tons, having from 13 to 15 men for a crew each.

4. During the period mentioned above, the American fishing-schooners that I have seen have made yearly good voyages. I have heard the fishermen say that they would sooner go on shares than on wages at \$40 per month, because they could make more. These schooners generally make two trips in a season, and some of the fishermen told me that all the schooners made two trips.

5. The cod fishery is as good now as it was formerly; herring also, and all kinds of bait.

6. The Americans take mackerel by means of hand-lines and seines, principally the former. I have seen as many as 15 schooners in the bay here with seines in their boats, ready to start seining whenever they saw a school of mackerel. But I have seen only a couple of hauls

of the seines, and I saw the boats loaded with mackerel taken out of them. This was at Sandy Beach, in Gaspé.

7. The throwing of fish offals overboard on our fishing grounds, as practiced by the Americans, is injurious to our fishing; because it poisons the waters, drives away the large fish, and kills the eggs.

8. The Americans fished all inshore during the Reciprocity, in this bay, at Griffin's Cove, Cape Rozier, and Cape Bon Ami.

9. Our inshore fisheries are of much greater value than the outside. All the fish are caught inshore in this bay.

10. It was the common practice of the Americans to come in among our boats, and, by throwing bait, entice the mackerel away with them. And when we went near their vessels they threatened to split our boats with ballast rocks.

11. The practice of seining is injurious to the fisheries; because the purse seine takes all kinds of fish, both large and small, and the latter are thrown away and left to perish.

12. To the best of my knowledge, about five American vessels have come in this bay for bait, yearly. And I have seen them setting nets for it during the Reciprocity Treaty and before. It takes about 40 barrels of herring for bait for a cod-fishing voyage.

13. The same fish that are taken inshore by the Americans, are also taken by the Canadians.

14. Since 1871 the cod fishery has greatly increased; and the mackerel are more plenty this year than they have been for many years past.

15. The Americans take herring inshore here for bait only.

16. Mackerel breed and feed in this bay chiefly inshore. Their food is lance, shrimps, and other small fish.

17. It is an advantage to the Americans to be allowed to land to dry and repair their nets.

18. It is a great advantage to the Americans to be able to transship cargoes; because it enables them to keep on the fishing-grounds and to double their fares.

19. It is a great advantage to the Americans to be able to procure bait in our inshores, either by fishing for or buying it. If they buy it, it is because they save time and find it more profitable to them.

20. The Americans could not carry on the cod and halibut fisheries so profitably if they could not get bait in our inshores.

21. It is a great advantage to the Americans to be able to procure ice in our inshores, to preserve their bait.

22. It is of no advantage to us to be able to fish in American waters.

23. The privilege of transshipping cargoes to the Americans is worth a load; and the privilege of getting bait in our inshores for their cod and halibut fisheries is worth these fisheries.

24. Fishing by Americans in our waters hinders the fishing operations of our fishermen to a great extent, because it brings in a competition that we cannot sustain. They are so much better supplied than we are that they take all the best fish.

LUKE MCCAULEY.

Sworn, to the best of his knowledge, information, and belief, at Douglas Town, county of Gaspé, Province of Quebec, Dominion of Canada, this 29th day of July, A. D. 1877, before me.

N. LAVOIE.

Justice of the Peace, Province of Quebec.

No. 209.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, THOMAS McRAY, of Gaspé, county of Gaspe, Province of Quebec, fisherman, make oath and say as follows:

1. Have been acquainted with all the fisheries that are carried on in the Bay of Gaspé and on the north shore of St. John's River for the last 30 years.

2. The fishing by Americans in this bay for mackerel was very extensive during the Reciprocity Treaty, from 1854 to 1866.

3. About 150 American mackerel-fishing vessels visited this bay yearly during the period mentioned above. These vessels averaged about 70 tons, having about 16 men for a crew each. I have heard the American fishermen say that they had always made good voyages, and often two in a season. They carried away about 350 barrels of mackerel each trip.

4. The cod fishery is as good now as it was 20 years ago.

5. The Americans take mackerel by means of seines and hand-lines. They generally use the purse seine. I once helped them to haul a seine at Sandy Beach. They haul them from the shore.

6. The practice of throwing fish offals on the fishing grounds is injurious to the fisheries, because it gluts the fish, poisons the water, kills the eggs, and drives the large fish away.

7. To the best of my knowledge, during the Reciprocity Treaty, the Americans have always fished inshore in this bay and at St. John's River for mackerel.

8. The inshore fishery in this bay is of much greater value than the outside. All the fish in this bay are caught inshore.

9. It was the common practice of the Americans, during the Reciprocity Treaty, to come in among our boats, and, by throwing bait, entice the mackerel away with them. They do this whenever they get a chance.

10. The use of the purse seine is injurious to the fisheries, because it takes all kinds, both large and small. The latter are thrown away and left to perish.

11. While on the north shore I have seen the Americans seine for bait, and we could not throw our seine until they had finished. And I heard one of the American fishermen say that if we were to do the same on their coast we would soon be driven away. They came in night and morning to seine for bait.

12. Herring are all caught inshore. The Americans take them for bait only.

13. Mackerel feed and breed all along our inshores. They feed on lance, shrimps, and sea-fleas.

14. The same fish that are caught inshore by the Americans are also caught by the Canadians.

15. Since 1871 the cod fishery has greatly increased, owing, I believe, to the absence of Americans from our waters. Mackerel also, and I think for the same reason.

16. It is a great advantage to the Americans to be allowed to land to dry and repair their nets.

17. It is a great advantage to the Americans to be able to transship their cargoes, because it enables them to keep on the fishing grounds, and to double their fares.

18. The Americans could not profitably carry on cod and halibut

fisheries in our waters if they were not able to procure bait in our in-shores.

19. The privilege of transshipping cargoes to the Americans is worth a load, and the privilege of getting bait in our in-shores for their cod and halibut fisheries is worth these fisheries.

20. Fishing by Americans in our waters hinders the fishing operations of our fishermen to a great extent, because they are so much better equipped with vessels and gears than we are, that they take all the best and largest fish.

his
THOMAS + McRAY.
mark.

Witness :

A. D. JOHNSTONE.

Sworn, to the best of his knowledge, information, and belief, at Gaspe, county of Gaspe, Province of Quebec, Dominion of Canada, this 1st day of August, A. D. 1877, before me.

N. LAVOIE,
Justice of the Peace, Province of Quebec.

No. 210.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, FRANCIS NOIL, of Fox River, county of Gaspe, Province of Quebec, fisherman, make oath and say as follows :

1. Am acquainted with all the fisheries which are carried on on this coast from Griffin's Cove to Chlorydorme, a distance of 33 miles, for 30 years.

2. During the Reciprocity Treaty, from 1854 to 1866, and before, the mackerel fishery by the Americans has been very extensive on these shores.

3. I have been several times during a season on board American vessels fishing mackerel. I have seen them fishing, whilst I was on board, and catching mackerel, and I have fished myself, besides, during the period mentioned above. I have seen yearly, and many times during the season, from shore and from my boat, Americans catching mackerel, and always inshore and very close to the shore, in two or three fathoms of water.

4. The number of American fishing-schooners which have visited these shores for mackerel fishing yearly, during the period mentioned above, was about 150, to the best of my knowledge. The average tonnage of these schooners is about 65 tons, having 15 men for a crew ; each of these vessels have carried away yearly at least 350 barrels. I have heard the captain of these schooners say that most of these schooners were on their second trip, having made their first load about the Magdalen Islands, Prince Edward Island, and the Strait of Canso.

5. The cod-fishery is about the same as formerly ; herring the same also.

6. The Americans take mackerel by means of hand-lines and seines ; but on this coast I did not see them using seines.

7. The practice of the Americans of throwing fish offals overboard injures our fishing grounds and the fisheries in general ; because, first, it

gluts the fish : and, secondly, because the decaying of these offals poisons the water, drives the large fish away, and kills the eggs.

8. During the Reciprocity Treaty, and before and after, the American schooners have always fished inshore, and made their load of mackerel often very close to the rocks.

9. The inshore fishery is by far of greater value than the outside ; all the fish on this shore are caught inshore.

10. Every year during the period mentioned above I have witnessed American vessels coming amongst our boats when we were fishing for mackerel, and the moment they arrive they throw bait and entice the mackerel away from us, so that our boats could not take any more. They have done this to me and to my neighbors as often as they could get the chance, thereby causing us great damage.

11. Since 1871 the codfish have considerably increased ; and I believe it is because the Americans have left our waters.

12. I have heard the Americans state many times that mackerel caught in here were larger and of a better quality than their own, and brought a higher price in their markets than their own.

13. Mackerel feed all along our inshores on launce and other small fish.

14. I have several times seen the Americans setting nets close to the shore.

15. It is a great advantage to Americans to be able to transship cargoes ; because it enables them to keep on the fishing grounds and to double their fares.

16. It is of no advantage to us to be able to fish in American waters, and I never knew of any vessel from here going there to do so.

17. The privilege of transshipping cargoes to the Americans is worth a load ; and the privilege of getting bait in our inshores for cod and halibut is worth these fisheries.

18. The fishing by the Americans in our waters hinders the fishing operations of our fishermen to a great extent, because we are not supplied with vessels and fishing gears to compete with them.

F. NOIL.

Sworn, to the best of his knowledge, information, and belief, at Fox River, county of Gaspé, Province of Quebec, Dominion of Canada, this 28th day of July, A. D. 1877, before me.

N. LAVOIE,

Justice of the Peace, Province of Quebec.

No. 211.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, JAMES JESSOP, of Newport, county of Gaspé, Province of Quebec, fisherman, make oath and say as follows :

1. Am acquainted with all the fisheries carried on on this coast for 30 years. I am living at Newport, and previous to that in Perce. I have been engaged on board an American mackerel-fishing schooner on shares. I have seen them fishing with hand-lines and seines, and have fished myself while on board, and caught mackerel always inshore, and besides I have seen them from the shore fishing at Newport and Perce ; and I have been on board many times while they were catching fish inshore during the period from 1854 to 1866.

2. A hundred American vessels have visited these shores yearly, from Point Macquereau to Perce, fishing mackerel. The average tonnage of these vessels is about 70 tons, having from twelve to fifteen men for a crew.

3. To the best of my knowledge the American vessels have made good voyages of mackerel yearly during and before the Reciprocity Treaty; 300 barrels per trip, on an average.

4. The cod fishery is better this year than it has been for 30 years, and it is because we are alone to fish on our grounds. Herring fishery is about the same. These last couple of years mackerel have not been plenty, but it seems to have increased this year.

5. The Americans fish mackerel with hand-lines and purse seines.

6. When I was engaged on board the American schooner we caught all our mackerel inshore, in fact on the net-moorings and inside the rocks; and all the schooners that I have seen here for mackerel have all made their loads inshore.

7. The practice of throwing offals of fish overboard, as practiced by the Americans, injures the fishing-grounds very much; it sickens the fish, and kills the eggs.

8. The inshore fishery is of greater value than the outside. Herring, caplin, launce, two-thirds of the codfish, and the greater part of the mackerel are taken inshore.

9. The Americans tuck their seines inshore, in fact I have only seen them use the seine inshore.

10. The use of the seine is injurious in this way, that the small fish are all thrown away and lost. They take all kinds of fish, big and small.

11. Almost every season whilst in Perce I have seen several American trawlers come in the cove and set nets to catch herring for bait.

12. Since 1871, codfish has certainly increased, both inshore and on the Banks. As I said before, it is because the Americans are not here to take our fish.

13. The Americans catch herring for bait only, inshore.

14. Mackerel feed on these shores on launce and other small fish, and that is what brings the mackerel inshore, and keeps them there during the fishing season.

15. It is a great advantage to Americans to be able to land, to dry and repair their nets.

16. It is a great advantage to the Americans to be able to transship their cargoes, because it enables them to keep on the fishing grounds, and to double their fares.

17. It is a great advantage to Americans to be able to procure bait in our inshores, either to catch or to buy it; but if they buy it, it is because they save time and they find it more profitable.

18. The Americans could not carry on the cod and halibut fishery profitably without being able to procure bait in our inshores.

19. It is of no advantage to us to fish in American waters.

20. The privilege of transshipping cargoes granted to Americans is worth a load; and the privilege of getting bait in our inshores for cod and halibut is worth these fisheries.

21. We cannot compete with the Americans with reference to the fisheries; they are so well equipped and supplied with fishing gears that on the fishing-grounds they take all the best fish.

JAMES JESSOP.

Sworn, to the best of his knowledge, information, and belief, at New-

port, county of Gaspé, Province of Quebec, Dominion of Canada, this 25th day of July, A. D. 1877, before me.

N. LAVOIE,
Justice of the Peace, Province of Quebec.

No. 212.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, S. B. HAMMOND, of Lockeport, in the county of Shelburne, make oath and say as follows :

1. I have been well acquainted with the fishing business for the last fifteen years, and have vessels at presenent gaged in that business, and am well acquainted with the inshore fisheries in this county.

2. Out of this port about one hundred vessels are engaged in the fishing business; most of these vessels are engaged in the shore fisheries. Fifty at least of these vessels get their bait in this county. Many American fishing-vessels run to this port for bait, and to other ports in this county. They also get ice in which to pack their bait in this port and in other ports in the county. The American vessels which get their bait and ice in this port fish from ten to forty miles off this coast, and without this bait and ice they could not profitably carry on the fishery on the coast. The Americans carry on the fishery off this coast within the said distance, by trawling, which I consider a bad way of taking fish. Our vessels take fish within the said distance principally by hand-lining, and have adopted trawling only this year to any extent in order to compete with the Americans.

3. The small codfish and scale fish, the greater part of which the Americans were in the habit of throwing overboard, they now bring into this port and sell at a profitable price. The Americans are thus enabled to come in and sell their small fish; run off and fish; come in again and sell their small fish, and finally go home filled up with a cargo of large and valuable fish.

S. B. HAMMOND.

Sworn to at Lockeport, in the county of Shelburne, this 21st day of August, A. D. 1877, before me.

AUSTIN LOCKE, J. P.

No. 213.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, WILLIAM LLOYD, of Lockeport, in the county of Shelburne, master mariner, make oath and say as follows :

1. I have been engaged in the fisheries for twenty-eight years, for twenty four years as master. I have fished along the southern coast of Nova Scotia from inshore off seventy-five miles and took mostly codfish, and am well acquainted with the inshore fisheries in Shelburne County.

2. I have seen in one day twenty sail of American vessels engaged in taking codfish on the above-mentioned fishing grounds. From La Have Bank to Brown Bank there are this summer at least fifty vessels of Americans. They are double the number of our vessels. These American vessels carry from ten to fifteen men each, and take from sixty

thousand to one hundred thousand pounds of fish each. They carry on the fishing on the above-mentioned banks by trawling and get the bait and ice with which they are enabled to do so principally in Shelburne and Yarmouth Counties, and without this bait and ice they could not carry on the fishing on the above-mentioned banks. These American vessels are a great hinderance to Nova Scotian vessels, as they have more hooks and are larger vessels and take away the fish from us. The Americans take mostly all their fish on these Banks by trawling; Nova Scotian fishermen principally by hand-lining. Trawling I consider a bad method of taking fish.

The Americans bring in here their small and scale fish, which they were formerly in the habit of throwing overboard, and find here a good market for them; these fish the Americans were in the habit of throwing overboard. They take away the best fish home with them. The Americans purchase bait and ice in this port and in other ports in this county. They purchase because it saves time and expense, and it would take a long time to catch sufficient bait.

WILLIAM LLOYD.

Sworn to at Lockeport, in the county of Shelburne, this 14th day of August, A. D. 1877, before me.

DAVID EISENHAUER, J. P.

No. 214.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, JAMES ALEXANDER, of Point St. Peter's, in the county of Gaspé, Province of Quebec, merchant, do make oath and say as follows:

1. I have been acquainted with the various fisheries on this coast for upwards of fifty-eight years.

2. Previous to and during the existence of the Reciprocity Treaty, a large fleet of American vessels frequented this coast for fishing purposes.

3. I have often seen a great number of American schooners close in shore catching mackerel, particularly in Mal Bay and the Bay of Gaspé.

4. I have seen as many as 50 to 100 sail and upwards of American schooners, for several seasons, mackerel-fishing in this vicinity. These schooners would average upwards of 70 tons each, manned by 10 to 15 men.

5. The American captains to whom I have spoken stated they generally made good voyages, always making two and often three voyages each season.

6. These schooners would take on an average from 400 to 500 barrels of mackerel from our shores each trip.

7. The fisheries are, generally speaking, much the same as heretofore. But the cod fishery has considerably increased this summer.

8. Mackerel is caught by the Americans both with hand-lines and seines.

9. The Americans, previous to and during the existence of the Reciprocity Treaty, took most of their fish inside the limits.

10. The inshore fishery is by far the most valuable, as herring, smelt, caplin, lance, fully two-thirds of the mackerel, and a great portion of the codfish, are taken inshore.

11. It has been a common complaint with our fishermen that the Amer.

ican schooners came inshore to entice away the mackerel by feeding them, thus preventing any more being caught by our people.

12. Our fishermen also complained that the Americans set nets for bait close inshore, which prevents their obtaining a sufficiency.

13. Have not seen them set nets.

14. The various kinds of fish taken inshore by the Americans are also taken by our fishermen.

15. The catch of codfish has greatly increased since 1871, caused no doubt by the absence of the Americans from our waters, thus allowing our fishing-grounds to be restocked.

16. Herrings are all caught inshore, and are only caught for bait by the Americans on this coast.

17. I have always understood from the Americans that our mackerel was superior to theirs, and fetched a higher price in their markets.

18. The landing of nets to dry and repair, by the Americans, on our coasts, is an undoubted advantage for them.

19. The transshipment of cargoes will also greatly benefit the Americans, as it will enable them to keep on the fishing-grounds and double their fares.

20. The catching and buying of bait is also an important advantage for the American fishermen. When they buy it is to save time.

21. The Americans cannot advantageously carry on the cod and halibut fisheries, without procuring bait within the limits.

22. The privilege of transshipping cargoes will benefit the Americans to the extent of one load. And that of getting bait for cod and halibut is nearly equal to the value of those fisheries, as the latter is all taken within the limits.

23. Fishing in our waters by the Americans is, and always has been, a serious injury to our fishermen, who cannot cope with them on account of the superiority of their vessels and fishing gear.

JAMES ALEXANDER, *J. P.*

Sworn, to the best of his knowledge, information, and belief, at Point St. Peter's, in the county of Gaspé, Province of Quebec, Dominion of Canada, this 1st day of August, A. D. 1877, before me.

PHILIP VIBERT,

Comr. P. D. P.

No. 215.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, GEORGE PRIVEL, fish merchant, of St. George of Mal Bay, county of Gaspé, Province of Quebec, make oath and say as follows:

1. I am acquainted with all the fisheries that are carried on on the coast of Gaspé for 40 years past. I have been fishing myself for cod, herring, and mackerel for 30 years.

2. During the Reciprocity Treaty, from 1854 to 1866, the American fishery for mackerel on this coast, from Point St. Peter to Sandy Beach, Gaspé, has been extensive.

3. To the best of my knowledge about 80 to 100 vessels have visited these shores for mackerel-fishing yearly. The average tonnage of these American vessels was from 60 to 65, with a crew of ten to fifteen men.

4. During the period mentioned above, I have been on board several American mackerel fishing vessels, while they were fishing close to our

coast. I have seen them actually fishing and catching mackerel with hand-lines inside three miles, and I heard many times the fishermen say to me that they were doing very well, and sometimes two trips during the season by each vessel.

5. These American fishing-vessels must have carried yearly during that period at least 800 barrels.

6. I have seen the Americans, yearly, during the Reciprocity Treaty, continually fishing for mackerel, and very close to the shore, from Point St. Peter, all along the coast of Gaspé Bay.

7. I have seen the Americans catching mackerel only with hand lines.

8. The use of the seine is injurious to the fisheries, because seines take all kinds of fish and of all sizes; the small ones not being marketable are thrown away and lost.

9. The practice of Americans of throwing fish offals overboard is injurious to our fisheries, because it gluts the fish and prevents the fish from biting, and also because it poisons the water, drives the fish, and kills the eggs.

10. Our inshore fisheries are by far more valuable than the outside ones. Mostly all the fish here is caught inshore.

11. The practice of the Americans of throwing their mackerel bait among our boats, and afterward retiring from the shore, has been highly injurious to us, because it enticed the fish away, so that we could not take mackerel afterward. They have done that as often as they got a chance; it has been done to me and to my neighbors very often, thereby causing us a great damage, not only in mackerel-fishing, but also in the cod fishery, by thus preventing us from getting bait.

12. The food of mackerel consists of lance, sea-fleas, and small animals floating in the water; this food is inshore; that is what keeps mackerel inshore. Mackerel breed in the Bay of Gaspé and feed along the shores.

13. I consider it a great advantage to Americans to be allowed to land for drying and repairing their nets or seines, and to cure their fish.

14. I consider it a great advantage to the Americans to be allowed to transship their cargoes in our harbors; because it enables them to keep on the fishing-grounds and to double their fare.

15. I consider that the Americans could not carry on profitably the cod or halibut fisheries in our waters if they were not allowed to procure bait inshore.

16. I consider it a great advantage for the Americans to be allowed to get ice in our harbors or on our shores to preserve their bait.

17. It is no advantage to us to be allowed to go and fish in American waters, and I know of none of our vessels having resorted thither for fishing purposes.

18. The privilege to Americans of transshipping cargoes is worth the value of a load and sometimes of two.

19. The value of the privilege to Americans of taking bait on our shores for cod and halibut is worth to them the profits of their fisheries of cod and halibut, because without that privilege they would not come.

20. Without speaking of the drawback the presence of Americans ashore sometimes causes to our own fishermen, their presence and fishing on our shores injures us very much, because we cannot compete with them, on account of their being far better supplied and equipped for the fisheries than we are. On the fishing-grounds they take all the best fish, and besides they ruin our fishing-grounds.

GEORGE PRIVEL.

Sworn to the best of his knowledge, information, and belief, at Point

St. Peter, county of Gaspé, Province of Quebec, Dominion of Canada, this 1st of August, 1877, before me.

N. LAVOIE,

Justice of the Peace, Province of Quebec.

No. 216.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, DANIEL DEVOT, of the Basin Amherst Island, Magdalen Islands, make oath and say as follows:

1. I am 62 years of age; I was born here and have always lived here. I am well acquainted with all the fisheries of these islands. I have fished myself from these islands for forty years.

2. The herring are found all round these islands as soon as the ice has gone, some years as early as the 20th of April, but generally in the beginning of May. They come in the greatest quantities into Pleasant Bay. They begin to spawn about the 10th or 15th of May each spring. They have never failed to spawn here each spring, always in great numbers, but differing, sometimes more, sometimes less. They spawn in from half a fathom to two fathoms of water, close to the shore. They also spawn in abundance in the harbor of Amherst, and in the basin at the Moulin. In the harbor they spawn in very shoal water, there not being not more than a foot of water above the eggs at low water. I have seen the eggs at the bottom attached to the sea herbs, kelp, &c., and to the rocks. When the male herring are depositing their milt over the eggs the water is made as white as milk; this is especially the case, and to be seen in calm weather. After a strong breeze of onshore wind the the eggs are often washed by the surf upon the shore or beach in great banks. The herring here spawned by the end of May or the beginning of June, as when taken at this time they no longer contain any spawn. We find the young herring about an inch and a half long about the beginning of August in all the bays and coves round the islands, but more particularly in Pleasant Bay.

3. The Americans have come to these islands to seine herring every spring, as long back as I can remember, some years in greater numbers than others, but always in great numbers. They always have large schooners; sometimes I have seen large three-masted schooners, brigs, and even steamers—these were American vessels. They seined from the shore, landing to haul their seines, on to or close to the shore. Without landing on the shores they could not seine in this way. They take immense quantities of herring in this way, frequently taking as much as two thousand barrels in one haul of the seine. Several vessels join and help to haul the seine, and they load in common from the quantity of herring in the seine. When a great quantity of herring remains in a seine for more than one day, this herring is lost, as the fish thus jammed together soon die and sink to the bottom. These herring are lost, and I have often seen a thousand barrels of herring thus lost.

4. Without the right of landing on our shores the Americans could not thus haul their seines.

5. I have seen as many as from 100 to 150 American vessels here at one time for the herring fishery, and these were large vessels, carrying from 900 to 1,000 barrels at the least.

6. The mackerel are taken with nets in Pleasant Bay and all around these islands, beginning generally about the 10th of June. This net-

fishing for mackerel lasts about ten or twelve days, and generally ends about the 20th of June. When we take the mackerel at the beginning of this net-fishing season they are full of eggs. By the 20th of June, when this net-fishing ends, the mackerel have deposited their eggs. They spawn in deeper water than the herring, where the sea seldom breaks. The line and hook fishery for mackerel begins about the beginning of August, and by this time it is very seldom that we find mackerel with eggs in them. About the beginning of August the Americans come in great numbers for the mackerel fishery in Pleasant Bay and around the islands. I have sometimes seen from 600 to 700 sail of American mackerel fishers in and around the islands. I once saw 400 sail at one time anchored off my place at the Moulin.

7. The permission to fish in American waters is of no use to us; our fishermen do not go there.

8. The American free market is of no use to me. I am in the fish trade for myself for the last fifteen years, and I have never sent any fish to the United States. I sell my fish either in Halifax or Quebec. My dried codfish goes to the West Indies; my mackerel to Halifax or Quebec.

9. The American fishing-crews often land and commit serious depredations. No later than last week they landed from four schooners in Pleasant Bay, and got up a riot at Amherst Harbor. Two years ago some Americans forced an entrance into my own house, causing by their violence and noise much alarm to my family. They broke open the door of my house.

I hereby swear that the above statement is, to the best of my knowledge and belief, correct.

his
DANIEL + DEVOT.
mark.

Witness:

W. WAKEHAM.

The said Daniel Devot has sworn to the truth of the above affidavit, at Amherst Harbor, Amherst Island, Magdalen Islands, county of Gaspé and Province of Quebec, this twenty-first (21) day of August, A. D. 1877, before me.

P. FORTIN, J. P.

No. 217.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, JOSEPH SINETTE, of Griffin's Cove, county of Gaspé, Province of Quebec, fisherman, make oath and say as follows:

I am acquainted with all the fisheries that are carried on on the coast of Gaspé since 35 years.

1. During the Reciprocity Treaty, from 1854 to 1866, and some years before that time, the mackerel fishery by the Americans on these coasts, from Griffin's Cove to Madeleine River, has been very extensive.

2. To the best of my knowledge, 150 American vessels have been on these shores yearly for mackerel fishing, during the period mentioned. The average tonnage of these vessels was 70 tons, and their crew 16 men.

3. I have been one season employed on board of an American schooner during the Reciprocity Treaty. We went all along the coast from here to Madeleine River, and we fished at Grand Etang, Chloiydorme,

Grande Vallée, and Madeleine. We fished about five or six acres from land. With hand-lines we took fish. The large fish we kept and the small were thrown overboard.

4. I have noticed in one day as much as twenty barrels which were thus thrown overboard.

5. Besides I have seen the Americans fishing always inshore, and yearly, from my house and from my boat. I have never seen the Americans fishing on this coast elsewhere than inshore, and very close to the shore.

6. The American fishing vessels always made good fares at that time mentioned, and it is also to my knowledge that most of these schooners were making two voyages a season each.

7. These American schooners have yearly carried away from our shores here during the period already mentioned from 400 to 500 barrels of mackerel.

8. I have also noticed the Americans trawling along the shore here for catching halibut.

9. The cod fishery is as good now as formerly ; herring also.

10. The Americans catch mackerel with hand-lines and with seines, either hauling or purse seines. I have seen the Americans seining with a purse-seine at Griffin's Cove, at about two acres from land. There was so much mackerel in the seine that it burst. I have seen seines on board every American vessel I have been on board.

11. The practice of Americans of throwing fish offals overboard is highly injurious to our fishermen, because it gluts the fish and poisons the water by decaying on the bottom, thus killing the eggs and driving the fish away.

12. The Americans have always fished inshore during the period mentioned above, and caught all their fish very close to shore.

13. The inshore fisheries are by far of a greater value than the outside ones. All the fish on this coast are caught inshore.

14. When the Americans were not with us we would take mackerel as well as themselves, but the moment they were coming with their vessels among us and throw bait our catching was done, except if they allowed us to fish with them, but most of the time they threatened to stone us if we did not get away. They done that as often as they got a chance. They have done that to me many times; and, more than that, they once run into my boat, notwithstanding my cries, and would have drowned me had I not been quick enough to cut my boat-anchoring cordage.

15. In my opinion, the use of the seine is injurious to the fisheries, specially the purse seine, because it takes a great deal more fish, and of every quality and size, a part of which is not saved, but thrown overboard or aside to die.

16. I have seen many times the Americans coming in here for herring, which they have bought for cod, halibut, and mackerel fishing.

17. During the first years of the Reciprocity Treaty, and before, the Americans used to take all the mackerel, big or small, but later they only took the number one mackerel.

18. Mackerel feeds on launce, shrimps, sea fleas, &c. This food is inshore; that is what keeps here mackerel inshore. There is an abundance of food for mackerel all along our shores.

19. It is a great advantage for Americans to be able to land, to dry and repair their nets, and to cure their fish.

20. It is a great advantage for the Americans to be allowed to transship cargoes in our shores, because it enables them to double their fares. I have seen that done at Fox River.

21. I consider it a great advantage to the Americans to be allowed to come in our inshores to catch or buy bait. And if they buy it, it is because they save time, and are able to keep longer on the fishing-grounds, and catch fish.

22. The Americans could not fish profitably for cod or halibut, or even mackerel, if they were not allowed to come inshore to get bait.

23. I consider it also an advantage to Americans to be allowed to come inshore for ice to preserve their bait.

24. I do not consider it an advantage to us to be allowed to fish in American waters.

25. The privilege to Americans of transshipping cargoes is worth them a load, or the value of a load or two more.

26. The privilege of getting bait inshore for halibut and cod is worth to the Americans these fisheries.

27. Besides the troubles and riots which the Americans have raised inshore, and which I have witnessed myself, besides also the difficulties we had in our small coves here in setting our nets on the moorings, which was often impossible, on account of the Americans having anchored too close, or because we were afraid that they would lose them during the night in getting under way, the fishing by Americans in our waters is highly injurious to us, and ruin us, because it brings in a competition on the fishing-grounds that we cannot sustain, they being better supplied with vessels and fishing gears than we are.

his
JOSEPH + SINETTE.
mark.

Witness:

J. A. CUELLET.

Sworn to the best of his knowledge, information, and belief, at Griffin's Cove, county of Gaspé, Province of Quebec, Dominion of Canada, this 31st day of July, 1877, before me.

N. LAVOIE,
Justice of the Peace, Province of Quebec.

No. 218.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, JOHN PHELAN, of Port Daniel, county of Bonaventure, province of Quebec, fishery overseer, make oath and say as follows:

1. Have been acquainted with all the fisheries on the shores of Bay Chaleur for a space of 35 years. About 150 American fishing vessels have visited the shores of Port Daniel and neighboring shores from 1854 to 1866, for mackerel fishing. I have counted as many as 60 at a time inshore; each vessel having an average of 12 men for a crew. I have seen American fishing schooners every year fishing inshore, from Point Macquereau to Paspebiac, a distance of 30 miles.

2. During the period mentioned from 1854 to 1866, I have often been on board American fishing vessels which were fishing at about half a mile from the shore. I have seen them actually catching mackerel inshore.

4. I have often heard American fishermen say that they were doing well at the mackerel fishery.

5. To the best of my knowledge the American fishermen have always made good voyages yearly.

6. The cod fishery is fully as good on this coast now as it was 15 or 20 years ago: herring also. Mackerel has decreased. But this season they have increased, owing to the disappearance of Americans from our waters.

7. The American fishermen carry on the mackerel fishery with hand-lines and seines.

8. The practice of throwing mackerel offals overboard on the fishing grounds injures the cod fishery, because it gluts the fish. Mackerel offals being recognized as good bait for codfish, whilst cod gurry is the most deleterious, poisoning the fishing grounds, driving away the large fish and killing the small ones. When the Americans were numerous in the bay, the cod fishery was poor on this coast, whilst now there are codfish in abundance.

9. To the best of my knowledge, from 1854 to 1866 the Americans have fished mostly inshore.

10. Our inshore fishery is of greater value than the outside (I always speak of this shore from Point Macquereau to Paspébiac), because mackerel, cod, and herring are all caught inshore here.

11. Several times I have heard complaints from our own fishermen about the Americans causing them injury by coming in among the boats and enticing the fish away, thereby causing them great loss. The Americans do this whenever they get the chance.

12. Most of the American fishing schooners are supplied with the purse-seine for mackerel fishery. The Americans have always used the purse-seine inshore. I have seen them use them several times each season, and with success. I have never seen them use the seines outside. I can safely say that two-thirds of the mackerel are taken inshore. They have seined all along this shore.

13. The use of the purse-seine is injurious to the fisheries, because they take all kinds of fish, large and small, the latter being thrown away dead or maimed, so that it could not live.

14. Every year some American schooners come in Port Daniel for bait. They both fish for and buy it. They catch their bait with nets.

15. Herring are all caught inshore. The Americans take them here for bait only.

16. Mackerel feed all along the inshores in Bay Chaleur. Their food is lancee, small herring, and other small animals.

17. I have seen the Americans several times come ashore to dry and repair their nets. I consider it a great advantage for them to be allowed to do so.

18. It is a great advantage to the Americans to be able to transship their cargoes: because it enables them to keep on the fishing-grounds and to double their fares.

19. It is a great advantage to American fishermen to be able to procure bait in Canadian inshores. I don't believe they could carry on the cod and halibut fisheries otherwise.

20. The privilege granted to Americans to fish in Canadian inshores injures Canadian fishermen to a great extent. It brings in a competition that we cannot sustain. The Americans being better equipped with fishing gears and vessels, that they have all the chance.

21. If the Americans were not allowed to fish in our inshores we might do well in good seasons, even with our poor outfits for mackerel. The reason our outfits are so poor is, because we are not supported by strong and rich companies like the Americans.

JOHN PHELEN.

Sworn, to the best of his knowledge, information, and belief, at Port Daniel, county of Bonaventure, Province of Quebec, Dominion of Canada, this 23d day of July, A. D. 1877, before me.

N. LAVOIE,
Justice of the Peace, Province of Quebec.

No. 219.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, SIXTE LAFRANCE, of Amherst Harbor, Amherst Island, Magdalen Islands, county of Gaspé, Province of Quebec, make oath and say as follows :

1. I am 67 years of age, and I have lived here for 48 years, and I have fished during all that time, though for the last seven or eight years I have not fished much. I am well and practically acquainted with the fisheries carried on in Pleasant Bay, off Amherst Harbor, and around these islands.

2. The herring spawn in great abundance in Pleasant Bay and Amherst Harbor and all around the islands, and they have never failed to come and spawn here every year, as above stated, since I first came here. They spawn in shallow water, on the flats of Amherst Harbor, in among the seaweed, where at low water there is not more than one foot of water over the spawn. Their spawn is generally attached to the seaweed. In Pleasant Bay and around the islands they spawn in from half a fathom to two fathoms water. They spawn in May, and during the spawning season, when the weather is fine and the sea calm, the sea over the spawning ground gets white like milk; this is caused by the milt of the male fish. Towards the end of August and in September, large quantities of small herring about two inches long are seen in the harbor and in Pleasant Bay; these fish keep in small schools. Towards evening they come inshore, while in day-time they seem to go out to sea. The mackerel feed on them, and when the fishermen are fishing for mackerel in the bay, and when they see schools of small herring pass by their boats, they know that the schools of mackerel are near at hand, and get ready for them.

3. Ever since I came here, I have seen every year large numbers of American schooners fishing for herring with seines, and I have seen as many as 150 of them at one time. About 25 years ago they used to load and take away from 800 to 1,100 barrels each. They used to take the herring with seines; they used to draw their seines ashore, and the men went on the land to draw the seines. They used also to dry their seines on shore, when their voyage was completed. I have seen myself one haul of a seine for herring load two American schooners of at least 1,000 barrels each, and this was not a rare occurrence; and I know that as many as 3,000 barrels have been taken in one haul. I have seen seines that had been drawn near the shore, moored for three days; that is, as long as the fine weather lasted, and the schooners that were partners in the seine, sometimes six in number, used to send their boats to take out the fish with dip-nets. When the bad weather came on they were obliged to tip the seine and allow the fish to go, some of them still alive, but most of them dead and of course lost.

4. If the Americans had not the right of landing on our shores, they would not be able to draw their seines ashore.

5. Mackerel are found in great abundance sometimes, at other times

they appear in less quantities, in Pleasant Bay. They have never yet failed to come every year. The time of fishing mackerel extends from the 10th to the end of June—that is, mackerel-fishing by means of nets in Pleasant Bay. They are then, in the beginning of this fishery, full of spawn; towards the end of this fishery a great number have spawned, as we find their bodies empty of the spawn; but still some have retained it to deposit it a little later. When we begin to fish for mackerel with hook and bait we no longer find them full of spawn, they are then spent.

I hereby swear that the above statement is to the best of my knowledge and belief correct.

his
SIXTE + LAFRANCE.
mark.

Witness:

JOHN GALT.

The said Sixte Lafrance has sworn to the truth of the above affidavit, at Amherst Harbor, Magdalen Islands, this twenty-first (21st) day of August, A. D. 1877, before me.

P. FORTIN, *J. P.*

No. 220.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, GABRIEL CORMIER, of Amherst Harbor, Amherst Island, Magdalen Islands, county of Gaspé, Province of Quebec, make oath and say as follows:

1. I am 77 years of age. I was born here and have lived here all my life. I fished from the age of 15 till about eight years ago, around the Magdalen Islands, at Anticosti, on the north shore of the gulf, from Natashquan to Blanc Sablon, and for the last 7 years I have confined myself to fish in Pleasant Bay and off the neighboring shore. I am well acquainted with all the fisheries carried on at the above-named places; they are cod, herring, mackerel, and halibut.

2. As soon as the ice disappears from the shores of these islands, herring are seen in great abundance, coming close to the shore for the purpose of spawning. They spawn in Amherst Harbor and all the islands. I have seen the eggs of the herring on the flats near the shores, everywhere around the islands. They spawn in a depth of one foot to two or three fathoms, and during the spawning season, that is during May, the sea gets white, as far as we can see, in Pleasant Bay, towards House Harbor and in Amherst Harbor with the milt of the male fish. In July we begin to see the herring-fry, half an inch long, with large heads and eyes. In September they are about two inches long, and begin to be shaped like the adult herring. In October they are about three inches long, and we use them then as bait for the codfish. We take those little herring with dip-nets along the shore, and sometimes we find enough in the stomach of the codfish taken to serve us as a bait for the whole day. Since I first commenced fishing, I have never seen the herring fail in Pleasant Bay or round these islands. They always come to spawn, though sometimes in greater numbers than others. There is no place in the gulf or on the coasts of the maritime provinces, as far as I

have heard from the numerous fishermen with whom I have spoken, where herring spawn in such abundance as at the Magdalen Islands.

3. The Americans have come to fish for herring round these islands ever since I can remember, and about 20 or 25 years ago they must have come some years to a number of 150 sail or more annually.

4. In June mackerel come into Pleasant Bay in great numbers; we then catch them with nets, and we then find them full of spawn. When, in August, we fish for them with hook and line we find them spent; they are then beginning to get fat, and recover from the effects of spawning.

5. I may also state that the Magdalen Islands are spawning-grounds for the codfish.

6. The right of fishing in American waters, granted to us by the Treaty of Washington, is not of the least use to us. I have never heard of one of our vessels going to fish in those waters.

I hereby swear that the above statement is, to the best of my knowledge and belief, correct.

his
GABRIEL + CORMIER.
mark.

Witness:

JOHN GALT.

The said Gabriel Cormier has sworn to the truth of the above affidavit, at Amherst Harbor, this twenty-first day of August, A. D. 1877, before me.

P. FORTIN, J. P.

No. 221.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, EDWARD A. CONWAY, of Gaspé, in the county of Gaspé, make oath and say as follows:

1. I am agent at Saint John's for the Messrs. J. & E. Collas, fish merchants. I was also agent at Moisie for 2 years before I came to this place. I am in the fish business for the last 7 years.

2. The principal fish on this coast are the cod, the halibut, mackerel, and herring. All these fish are caught in the inshore limits. At Saint John's we occasionally fish on the banks.

3. It would be impossible for any vessel to continue to fish on the Banks or inshore waters of this coast without coming on shore for bait, as all our bait is caught within three miles from shore; in fact all our bait is taken close along ashore. The usual bait—launce, herring, caplin, &c., are taken all the time right on shore.

4. The right of fishing in American waters is of no value to us; we have no desire to go there, as we have all the fish we can take, if left undisturbed, at our own doors.

5. The American free market is of no use to us. All our fish is prepared for and shipped to Brazil, the West Indies, or Europe. In my time, I have never known of any fish having been sent to the United States.

I hereby swear that the above affidavit is, to the best of my knowledge and belief, correct.

E. A. CONWAY.

The said Edward A. Conway has sworn to the truth of the above affidavit, at Saint John's, in the county of Saguenay and Province of Quebec, this 8th day of August, A. D. 1877, before me.

P. FORTIN, J. P.

No. 222.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, PHILIAS SIROIS, of L'Islet, in the county of L'Islet and Province of Quebec, make oath and say as follows :

1. I am engaged in the fishing business for the last 16 years. I own a fishing establishment in St. John River, north coast of the river St. Lawrence, on which I keep 24 boats. I am thoroughly acquainted with all the operations connected with fishing on this coast. I am acquainted with the fisheries carried on between Mingan and Seven Islands.

2. The principal fish caught are the cod, halibut, mackerel, and herring.

3. The cod is the principal fish, and gives rise to the principal fishing on the coast. All the fishing on the coast specified is carried on within the three-mile limit, with the exception of the St. John's Bank and Mingan Bank, upon which the boats of this coast go and fish sometimes, generally in the fall, but the great bulk of the fishing is carried on much inside of the three-mile limit.

4. The bait—we use caplin, launce, herring, clams, and trout, mackerel and squid occasionally, also smelt. These fish are all taken close on the beach, except the squid, but all far within the three-mile limit. It would be impossible for a foreign fishing vessel to fish for cod on the Banks of St. John or Mingan outside to the limit, without being obliged to come into Canadian waters to take their bait. I am sure of this fact, as I have seen during the last five years of the Reciprocity Treaty, and the two years during which the Americans were allowed to fish in British waters with licenses, a fleet of from 10 to 40 vessels, most of which were American vessels, fishing for cod and halibut, both on the banks and inshore waters. These vessels had to come on shore for bait, and I repeatedly saw them taking their bait by means of seines, inside of the mouth of the river, as well as on the beach. They might sometimes take their bait on the banks by means of drift-nets, and they might also bob for squid, but they could not depend on this manner of getting bait, but for cod fishing they have to come to the shore for bait. If they had not this right, they would have to stop the fishing and leave the coast.

5. After the period named, I saw but a few, say three or four of a season, fishing on the Banks and inshore waters, and, as usual, taking their bait on shore.

6. It is my opinion that vessels fishing on fishing grounds, and throwing overboard all their offal, as every vessel does, injure the fishing, because it gluts the fish, and they refuse to take the bait.

7. The competition by these foreign vessels also injures the fishing, as when the fish is scarce the more boats or vessels are fishing the less remains for each; and when bait is scarce and strangers come and interfere with our men in the taking of it with large seines, there is less chance for our men to get enough, and our fishing may be stopped or hindered accordingly.

8. The privilege of fishing in American waters is of no practical advantage whatever to Canadian fishermen, as it is not at all probalbe

that we will leave good fishing grounds to go such a distance to fish in grounds already exhausted.

9. The American free market is of no use to us, and for the last 17 years I have never shipped any fish to the United States. My fish goes to Europe, Brazil, or Canada.

10. It is important for us to keep our fisheries to ourselves, and not to give them to foreigners unless we obtain equivalent advantages in one way or another.

11. The American vessels I mentioned in paragraph 4 used, as a general thing, to load. They averaged from 50 to 60 tons, and they used to get full loads.

I hereby swear that the above statement is, to the best of my knowledge and belief, correct.

PHIS. SIROIS.

The said Philias Sirois has sworn to the truth of the above affidavit at St. John's River, in the county of Saguenay and Province of Quebec, this eighth day of August, A. D. 1877, before me.

P. FORTIN, J. P.

No. 223.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, JOHN RENOUF, of Carlisle, of the county of Bonaventure, of the Province of Quebec, make oath and say as follows:

1. I have been on this coast for the last 21 years as agent for Mr. Clarence Hamilton. I have been his agent during that time at the following places: Seven Islands, Moisie, Long Point of Mingan, and St. John River. I understand thoroughly every operation connected with fishing and the curing of fish. I keep twenty-two boats here at St. John River.

2. The fisheries carried on on this coast are the cod, herring, mackerel, and halibut; all these fisheries are done within three miles of the coast in our waters, with the exception of two Banks, the St. John Bank and the Mingan Bank, where cod and halibut are occasionally taken late in the season; these Banks lie at about nine miles from shore.

3. The cod is the most important fish on this coast, and is the fishery most extensively carried on by our people.

4. The bait we use for cod fishing is caplin, launce, herring, clams, mackerel, occasionally squid and trout.

5. It would be impossible for a foreign fishing vessel not having the right of entry to our waters to carry on the fishing on the banks above described, for, although bait is occasionally taken on these banks by seines, this is by no means certain; the bait is almost entirely taken close inshore and in the mouths of the rivers and on the beach.

6. I think the practice of throwing overboard offal, while on the fishing grounds, which the Americans do extensively, most injurious to the fishing, as it gluts the fish, and they will no longer take the bait.

7. The competition carried on by foreign vessels is also very injurious to the fishery, for when the fish are scarce the more boats there are fishing the less each one will take, and when bait is scarce, if foreigners are allowed to come with large seines and fish day and night for it, as I know they have done, of course there is less chance of our fishermen getting enough to carry on their fishery.

8. I consider the privilege of fishing in American waters, granted to us by the Treaty of Washington, of no value to our fishermen, as they would never think of leaving their own profitable waters for ones already exhausted.

9. I consider it a matter of great importance to us to keep our fisheries in our own hands and not to allow Americans or any one else to have the right of exhausting our waters.

10. The American market for our fish, free of duty, is of no advantage to us. I have never shipped any fish to the United States; all our fish are sent to Europe or the Brazils.

I hereby swear that the above statement is, to the best of my knowledge and belief, correct.

JOHN RENOUF.

The said John Renouf has sworn to the truth of the above affidavit at St. John, in the county of Saguenay, of the Province of Quebec, this 8th day of August, A. D. 1877, before me.

P. FORTIN, *J. P.*

No. 224.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, WILLIAM FRANCIS BOWER, of Point St. Peter, of the county of Gaspé, of the Province of Quebec, fisheries agent at Shel Drake for Messrs. John & Elias Collas, make oath and say as follows:

1. I have for the last three years been manager of Messrs. J. & E. Collas's fishing establishment at Shel Drake. I understand thoroughly every operation connected with fishing and curing fish.

2. The fish taken here are cod, herring, mackerel, and halibut; of these I am only concerned in the cod-fishery; but I am well aware that all the fisheries here are carried on within three miles of the coast, except on one small bank, which lies some seven or eight miles from the shore, between Shel Drake and Thunder River. The fishermen, however, very seldom go there.

3. The codfish cured here rank as Gaspé fish, number one, and are superior to American cured fish, and command higher prices in the Brazilian and European markets.

4. I can confidently state that our fishermen will never go to fish in United States waters, and consequently that the right acquired by the Treaty of Washington is of no value whatever to us.

5. From the knowledge I have of the fish trade, I am in a position to state that the right of having a market free of duty for our fish in the United States is of no value to us.

I hereby swear that the above statement is, to the best of my knowledge and belief, correct.

WILLIAM FRANCIS BOWER.

The said William Francis Bower has sworn to the truth of the above affidavit at Shel Drake, this seventh day of August, A. D. 1877, before me.

P. FORTIN, *J. P.*

No. 225.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, HIPPOLYTE BOUDREAU, of Esquimaux Point, of the county of Saguenay, in the Province of Quebec, make oath and say as follows:

1. I am 40 years of age, and have been a fisherman for the last 25 years. I am well acquainted with the fisheries carried on at the Magdalen Islands, Anticosti, and the north shore of the river and gulf of St. Lawrence, from Sheldrake to Blanc Sablon. I was present when Mr. Julien Boudreau gave his affidavit, and having heard it read to me, I declare that I fully concur in all his statements and opinions, as being to the best of my knowledge and belief correct.

HIPPOLYTE ^{his} + BOUDREAU.
mark.

Witness:

JOHN GALT.

The said Hippolyte Boudreau has sworn to the truth of the above affidavit, at Esquimaux Point, this 8th (eighth) day of August, A. D. 1877, before me.

P. FORTIN, J. P.

No. 226.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, FRANCIS CORMIER, of Esquimaux Point, in the county of Saguenay, and Province of Quebec, make oath and say as follows:

1. I am 35 years of age. I have been fishing for 22 years, and am well acquainted with the fisheries of the Magdalen Islands, the island of Anticosti, the north shore of the River and Gulf of St. Lawrence, from Sheldrake to the Straits of Belleisle, and being present when Mr. Julien Boudreau gave his affidavit, and having heard it read to me, I fully concur in all his statements and opinions, and hereby swear and declare that all his statements and opinions are, to the best of my knowledge and belief, correct.

FRANCIS ^{his} + CORMIER.
mark.

Witness:

W. WAKEHAM.

The said Francis Cormier has sworn to the truth of the above affidavit, at Esquimaux Point, this 8th day of August, A. D. 1877, before me,

P. FORTIN, J. P.

No. 227.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, PLACIDE DOYLE, of Esquimaux Point, in the County of Saguenay and Province of Quebec, make oath and say as follows:

1. I have been 30 years a fisherman and am master and owner of a schooner. I am 45 years of age. I am well acquainted with the fish-

eries of the Magdalen Islands, the Island of Anticosti, and the north shore of the River and Gulf of St. Lawrence, from Sheldrake to Blanc Sablon, and being present when Mr. Julien Boudreau gave his affidavit, and having heard it read to me, I fully concur in all his statements and opinions, and hereby declare that all he has said is, to the best of my knowledge and belief, correct, and to this I swear.

his
PLACIDE + DOYLE.
mark.

Witness:

WM. WAKEHAM.

The said Placide Doyle has sworn to the truth of the above statement at Esquimaux Point, this eighth day of August, A. D. 1877, before me.

P. FORTIN, J. P.

No. 228.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, GABRIEL CORMIER, of Esquimaux Point, of the county of Saguenay, of the Province of Quebec, make oath and say as follows:

1. I am 50 years of age, and have been a practical fisherman for the last 35 years. I am well acquainted with the fisheries carried on on the Magdalen Islands, Anticosti, the north shore of the River and Gulf of St. Lawrence, from Sheldrake to Blanc Sablon; and being present when Mr. Julien Boudreau gave his affidavit, and having heard it read to me, I fully concur in all his statements and opinions, and declare that they are, to the best of my knowledge and belief, correct.

his
GABRIEL + CORMIER.
mark.

Witness:

JOHN GALT.

The said Gabriel Cormier has sworn to the truth of the above affidavit, at Esquimaux Point, this 8th (eighth) day of August, A. D. 1877, before me.

P. FORTIN, J. P.

No. 229.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, NATHANIEL BOUDREAU, of Esquimaux Point, of the county Saguenay, of the Province of Quebec, make oath and say as follows:

1. I am 46 years of age. I have been carrying on the fishery in the Gulf of St. Lawrence for the last 30 years, and I am well acquainted with the fisheries of the Magdalen Islands, of Anticosti, the north shore of the River and Gulf of St. Lawrence, from Sheldrake to Blanc Sablon, and being present when Mr. Julien Boudreau gave his affidavit, and having heard it read to me, I fully concur in all his statements and opinions, and declare that all he has said is, to the best of my belief and knowledge, correct.

his
NATHANIEL + BOUDREAU.
mark.

Witness:

JOHN GALT.

The said Nathaniel Boudreau has sworn to the truth of the above affidavit at Esquimaux Point, this (8th) eighth day of August, A. D. 1877, before me.

P. FORTIN, *J. P.*

No. 230.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, JULIEN BOUDREAU, of Esquimaux Point, in the county of Saguenay, make oath and say as follows :

1. I have lived here 16 years ; before that I lived at the Magdalen Islands where I was born. I am 63 years of age, and have been a fisherman for 50 years, and for the last 45 years I have been carrying on the fishery with a vessel of which I was master and owner, on the north coast of the Gulf of St. Lawrence, from Sheldrake to the Straits of Belleisle, and in the Straits of Belleisle, and on the Atlantic coast of Labrador, as far as Cape Harrison, at the Magdalen Islands, on La Have Bank, at the mouth of the Bay of Fundy, and on George's Bank. I am well acquainted with every operation relating to the taking and curing of codfish, halibut, mackerel, and herring.

2. I am also acquainted with seal hunting on the ice.

3. The fisheries carried on along the coast of the north of the St. Lawrence, from the Sheldrake to the Straits of Belleisle, are the cod, halibut, mackerel, and herring. All these fish are caught within the three-mile limit all along the coast named, with the exception of the St. John and Mingan Banks, Natashquan, Kejasca, Belles-Amours Banks, where the fisheries are carried on also outside of the three-mile limit, at a distance of from three to six miles from the three-mile line.

4. The bait for taking cod and halibut is caplin, herring, launce, squid, clams, mackerel, and trout. All this bait is taken near the shores, and generally, as in the case of launce, caplin, herring, with seines from the shore. Herring, as well as mackerel and trout, is also taken in nets. Squid are taken with jigs, by hand.

5. Since I visited the north shore of the St. Lawrence and the Straits of Belleisle, that is to say, for the last 45 years, I find that the quantity of fish is about the same upon the whole, but I must add that there are variations, some years being much better than others.

6. From the time that I first visited Natashquan, in 1832, that place was visited annually by American fishing schooners to the number of about 15, of from 80 to 120 tons, and having from 15 to 20 men, with from four to eight boats with each vessel. These vessels were in company with, on an average each year, 20 or 25 Canadian vessels. Each of these American vessels averaged 500 quintals. This state of affairs existed up to 1854, a period of 22 years, during which they took at this place alone about 8,000 quintals annually. Valuing this fish at \$3 per quintal, this would give a sum of nearly half a million of dollars for the value of the fish taken illegally by the Americans at Natashquan alone. Before my time, according to reliable information, American vessels were also in the habit of fishing at this place in even greater numbers. A number of American vessels still visited Natashquan after the existence of the Reciprocity Treaty, but the quantity of codfish having slackened, they did not visit the place in such numbers. I have always seen American vessels fishing on the Banks of Natashquan and Kejasca.

7. These American vessels fishing on these Banks and throwing the offal overboard cause great destruction to the cod by the codfish swallowing the heads and spinal bone, thus choking themselves; besides, it drives the cod off the grounds on which these offals are thrown.

8. American vessels fishing on the Bank of Natashquan or any other Bank in the gulf, cannot carry on the fishery with profit, or at all, unless they obtain the right of taking bait on shore, that is, in British waters. It is true they might bring salted clams from their own country or herring from the Gut of Canso, and sometimes take fresh herring on the Bank with drift nets, but this bait cannot be depended upon, and no schooner could make a profitable voyage under those circumstances; and without the right of taking fresh bait on our shores no American schooners could continue to fish on the Banks.

9. At Bonne Esperance, Five Leagues, Middle Bay, Belles Amours, Bradore, Blanc Sablon, the Americans use seines for taking cod; these they haul on shore, and by means of these seines they take large quantities of codfish—large and small—many of the small ones too small to be cured, and they have to be thrown away, thus causing a wanton waste of this precious fish. Two years ago, at Blanc Sablon, some American fishermen threw away six boat-loads of small fish which had been taken in the seine. This way of taking fish is an injury to the fishing ground, to the fish itself, which it destroys without profit, and to the fishermen who fish with hook and line.

10. The herring is a fish that is found in great abundance on this coast, and they spawn at many places, particularly at Betchewar, St. Genevieve, Pashashubac, Kejasca, Washshucotai, Coacoachoo, and many other places to the eastward. American fishing-vessels have been in the habit of visiting the coast between Washshucotai and Coacoachoo, both inclusive, for the purpose of taking herring for the last twenty years. They take this herring with seines, which they draw on shore. About 20 American schooners went there this year; the ordinary fishing schooners for herring took about 1,000 barrels each, and one three-masted schooner took 6,000 barrels (six thousand). This load was for the Norwegian market, and the vessel sailed directly from Washshucotai for Norway. During the last twenty years about the same number of vessels have loaded herring each year.

11. I am also acquainted with the fisheries of the north and south coasts of the island of Anticosti. The fisheries carried on there are those of cod, herring, and mackerel, and halibut, and are all carried on within three miles of the coast, there being no fishing beyond that limit; so that any vessel coming to fish there must fish within British waters. Some American schooners, about eight or nine, come to fish herring on the north coast of Anticosti, at Fox Bay, or Belle Bay. Some of them loaded there, others went to complete their load at Washshucotai. They have been in the habit of coming for a number of years till this year.

12. About fifteen years ago American vessels began to come and fish for halibut on the coast of Anticosti, and they fished there until this year. They also fished on this coast, and even in the harbor of Esquimaux Bay. I cannot state exactly what number, but I can say that they fished so exhaustively that they have nearly destroyed all the halibut on these fishing grounds.

13. The competition of so many American vessels in our waters is injurious in a very great degree to our fisheries and to our fishing interest: and the fishermen of this country have a much smaller chance of taking fish when they have so many American fishing-vessels on the

same fishing grounds as themselves than if they were left alone. It is consequently the interest of this country to keep the fisheries in our own hands if possible.

14. The right of fishing in American waters is of no value to us.

15. The privilege of selling our fish duty free in the United States is no use to us; our fish is not prepared for that market.

16. All the coasts that I have mentioned in and about the gulf of the St. Lawrence are very accessible to American fishermen, and they possess numerous harbors and good anchorage grounds, where their vessels can lay with safety. They also can and do procure wood and water and other supplies.

17. The advantage of fishing in the inshore waters is a very great one to the Americans. If they could only fish on the outside Banks, they would do but little harm to us, and would have but poor success themselves.

18. I rate the advantage to the Americans of fishing in our inshore waters and taking bait on our shores at from 75 (seventy-five) to 90 (ninety) per cent. on the total value of the fish caught.

I hereby swear that the above statement, is to the best of my knowledge and belief, correct.

his
JULIEN + BOUDREAU.
mark.

Witness:

WM. WAKEHAM.

The said Julien Boudreau, of Esquimaux Point, has sworn to the truth of this affidavit, at Esquimaux Point, in the county of Saguenay, and Province of Quebec, this 8th day of August, A. D. 1877, before me.
P. FORTIN, J. P.

No. 231.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, PHILIP TOUZEL, of Shelldrake, of the county of Saguenay, in the Province of Quebec, postmaster, make oath and say as follows:

1. I have lived here for the last 21 years, and for three years previous to that I came every summer to this coast to carry on the cod fishery. I am a practical fisherman, and also fish merchant, and am well acquainted with the fisheries of this place and the neighborhood. The fisheries on this coast are cod, herring, mackerel, and halibut; of these the cod is the chief by far.

2. These fisheries are carried on within three miles of the shore, except that sometimes the fishermen take codfish on a Bank $7\frac{1}{2}$ miles from the shore. This Bank is a continuation of the St. John's Bank.

3. The quantity of codfish on this coast, I think, is now as great as ever it was, though of course the catch varies, some years there being more, some less.

4. Halibut were formally plentiful on this coast, and the fishermen could take plenty with hand-lines, especially off Shallop River and Manitou River. American fishing schooners, equipped purposely for halibut-fishing, began to show themselves on this part of the coast about ten years ago, as far as I can remember, although some might have come before. We used to see three or four at once off this place; those

vessels used to make two, sometimes three, trips each season; they kept their halibut fresh on ice. All these vessels took full loads at each trip; they were from 70 to 80 tons each, and could take on an average seventy or eighty thousand (80,000) pounds of fish each. These vessels continued to fish here till about three years ago, keeping here sometimes as late as the beginning of November. During the time that they had no right to fish, that is, between the time of licenses and the commencement of the Treaty of Washington, they came here in spite of the coast-guard cruisers.

5. I believe the present scarcity of halibut on this coast is owing to the immense numbers of that fish that were taken by the Americans; but if this fishery is left unmolested for a few years I am sure it will become soon as productive as it ever was.

6. This coast is very accessible for fishing boats and vessels, as it is full of harbors and roadsteads, and the shores abound with bait.

7. The bait found here in abundance is caplin, launce, herring, squid, and clams. Launce, caplin, and clams are the most plentiful throughout the season.

8. The halibut schooners take a supply of bait with them from the United States; after this is used up they take their bait on our shore. A vessel equipped for Bank fishing for cod or halibut, which would come to fish on the Bank above described, might at times find bait on this Bank in the shape of herring or mackerel, but more than half the time they would have to come to the shore to take bait, and foreign fishermen, not having acquired the right by treaty to fish in our waters, could not, therefore, take their bait on shore, and in consequence would not be able to carry on their Bank fishing.

9. While it is a great advantage to American fishermen to have the right to fish in our waters, it is not of the least use to our fishermen to have the same right with regard to United States waters, as there is no chance of our ever going there.

10. And the American free market is also of no use to our fishermen, for our fish are cured especially for home consumption or for exportation to Europe and the Brazils. These markets are large enough to take all the fish we can supply.

11. I consider it a matter of the utmost importance to our fishermen to have, if possible, our fisheries reserved exclusively to ourselves, as the competition carried on by Americans is most injurious, and will soon deprive our fishermen of their occupation, and oblige them to emigrate.

I hereby swear that the above statement is, to the best of my knowledge and belief, correct.

PHILIP TOUZEL.

The said Philip Touzel has sworn to the truth of the above affidavit at Sheldrake, in the county of Saguenay, of the Province of Quebec, this seventh day of August, A. D. 1877, before me.

P. FORTIN, J. P.

No. 232.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington:

I, SAMUEL BOUCHARD, of Amherst Harbor, Amherst Island, Magdalen Islands, make oath and say as follows:

1. I am 40 years of age. I was born here. I have fished for 20 years

at the Magdalen Islands and on the north shore from Natashquan to Belleisle.

2. The herring spawn here every spring, and never failed since I remember; they spawn in May.

3. The mackerel also spawn here in the month of June. They spawn in deeper water than the herring, and do not spawn till after the herring.

4. The Americans fish here for herring every spring. They generally haul their seines from the shore.

5. I fished on board American schooners for two seasons, 21 years ago. I fished all round the Magdalen Islands, and on the north shore of the island of Prince Edward, and in the Bay of Chaleur; and the greatest part of the fish taken by these American vessels was so taken close along the shore, and within 3 miles of the coast. We found greater facilities for taking mackerel close inshore, because mackerel are generally more abundant inshore, as they find inshore a greater quantity of small fish upon which they feed. We made one trip each season, taking 400 barrels each trip.

6. From 250 to 300 sail of American mackerel-fishers fish in and around the Magdalen Islands each season, and I have seen 100 in Pleasant Bay at one time; and only the other day I saw 72 American vessels anchored off Etang du Nord. The schooners we see this year are of much larger tonnage than we used to see formerly. Some are from 100 to 150 tons, and have two seines on board. They practice mackerel-seining now more than they used to here formerly, though they also, even the seiners, use the hook and line. The schooners, when loaded, carry from 300 to 400 barrels, that is, the ordinary sized ones; but the large ones can carry as much as a thousand barrels.

I hereby swear that the above affidavit is, to the best of my knowledge and belief, correct.

SAMUEL BOUCHARD.

The said Samuel Bouchard, of Amherst Harbor, Magdalen Islands, county of Gaspé, and Province of Quebec, has sworn, at Amherst Harbor, as above, to the truth of this above affidavit, this twenty-first day of August, A. D. 1877, before me.

P. FORTIN, J. P.

No. 233.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, GABRIEL SEABOYER, of Lower LaHave, in the county of Lunenburg, master mariner, make oath and say as follows:

1. I have been engaged in the fisheries for forty years. I have fished as master about eleven years, and have also been interested for the same period of time in vessels engaged in the fisheries. I have fished along the southern coast of Nova Scotia, around Cape Breton, Prince Edward Island, eastern coast of New Brunswick, and around the Magdalenes and Lower St. Lawrence. I have fished mackerel, herring, and codfish on the above-mentioned coast, and am at present well acquainted with the inshore fisheries in Lunenburg County.

2. I have seen in the North Bay at one time upwards of one hundred sail, the most of whom were Americans; and I have seen at Pleasant Bay a fleet of upwards of two hundred sail, most of whom were Ameri-

cans. Those vessels were engaged in mackerel-fishing, and they took mackerel mostly all within three miles of the shore; and in my experience I never saw any large quantity of mackerel taken beyond three miles from the shore. I have made calculations, along with other captains, and we concluded that there were nine hundred sail of American fishing vessels in the North Bay.

3. The Americans carry from fourteen to twenty men on board their mackerelmen, and took from three to four hundred barrels on board each vessel; some took as high as seven hundred barrels. They made from two to three trips. American codfish vessels carry from ten to fifteen men, and take in the bay from seven to ten hundred quintals to each vessel, on each trip, and make about two trips. I have often seen Americans in the spring of the year lying along Cape North, in Cape Breton, within three miles of the shore, engaged in taking codfish; and the vessels which now go from here to take codfish, fish close in to the shore.

4. In my experience the mackerel fishery has varied. It may have fallen off some during the past few years, which, I think, has arisen from over-fishing. Codfish can almost always be taken plentifully if bait is plenty. The herring fishery is good and has always remained the same.

5. The Americans took mackerel with hook and line and now use purse-seines. They take codfish mostly by trawling, which I consider a very improper method of taking fish. Trawling takes the spawn fish, as the bait lies quietly upon the bottom. In hand-lining spawn fish are seldom taken. The Americans trawled for codfish ever since I can remember. Our fishermen only commenced to trawl about five years ago, and were driven to this plan to compete with the Americans. I have seen American schooners take large quantities of herring inshore around the Magdalenes; some schooners took as many as two thousand barrels. Those herring were taken with seines.

6. In my opinion throwing overboard offals is injurious to the fishing grounds, and the sound bone which is thrown over kills many large fish.

7. The Americans always fished inshore when they could. When a cutter was in sight they disappeared, and when she went away they returned; and I have seen Americans kept off the shore beyond three miles, and they could not catch a mackerel, and our vessels caught hundreds of barrels.

8. The inshore fishery is worth double of the whole fishery, and more than double.

9. The Americans made a practice of lee-bowing us, and I have often seen them running into Nova Scotian vessels; and I have myself been driven off the grounds by American vessels, and away from schools of mackerel.

10. Over twelve years ago, I have seen American vessels in the North Bay with purse-seines, and I consider these seines injurious to the fishery. I have never seen a Canadian vessel with a purse-seine.

11. The Americans catch bait all around our coast, as much as they can get.

12. During the past six years there has been no increase in the quantity of fish in Canadian waters. This, I think, is owing to over-fishing, purse-seining, trawling, and throwing gurry overboard, and other improper methods of taking fish.

13. The herring fishery is all inshore, and the Americans fish and buy them for bait; they buy because they find it saves time and expense.

14. I have often heard the Americans say that our mackerel is superior to what they take in their own waters.

15. Mackerel make inshore to feed and spawn; they are taken inshore, and I consider them an inshore fish.

16. I have often seen the Americans transshipping cargoes at the Strait of Canso; by so doing they save time, expense, and catch more fish.

17. The Americans get bait, and ice in which to preserve it, from our inshore fishermen all along our coast, and without this bait and ice it would be impossible for them to carry on successfully the deep-sea fishery. The Americans being allowed to get bait is a great injury to our bankers, as they gobble up the bait from our men. Without ice it would be impossible to keep the bait fresh, and they get this ice in almost every harbor along our coast.

18. I have never known nor heard of any Canadian fisherman fishing in American waters, nor do I consider this right of any value.

19. The Americans hinder Canadian fishermen by taking away so many fish, by improper methods of fishing, by carrying off our bait, and by taking up our fishing-grounds.

20. I would consider it a great benefit to the Canadian fishermen if the Americans were excluded.

GABRIEL SEABOYER.

Sworn to at Lower La Have, in the county of Lunenburg, this 7th day of August, A. D. 1877, before me.

JAMES H. WENTZEL, J. P.

No. 234.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, PATRICK MULLINS, of South Br, Sydney, in the county of Cape Breton, in the Province of Nova Scotia, collector of customs, make oath and say as follows:

1. I have been about fifty-two years engaged in the inshore fishery, and have fished mackerel, codfish, herring, halibut, dogfish, pollack, and squid, caplin, and other bait, and have handled salmon to a considerable extent, and have been acquainted with many Nova Scotian and American fishermen.

2. To my knowledge, the amount of fish taken by American fishermen in Canadian waters is very great. They take mackerel inshore, and I have heard from Nova Scotian fishermen that they have interfered with their nets inshore, their bobs being found in the Nova Scotia fishermen's nets; and they take codfish and halibut off shore, which makes the inshore catch of these last-mentioned fish less plentiful, and they dress their fish off shore, throwing overboard the offals, which is injurious to the fishing grounds.

3. I live close to the coast, and have within the last seven years seen within the three-mile limit as many as twenty American fishing-vessels at one time engaged in fishing; and this fall ten years ago I have seen about one hundred fishing-vessels in Sydney Harbor at one time, most of whom were American fishermen. Such a large number of fishermen, there being from ten to fifteen men on board each vessel, caused uneasiness to the inhabitants, and from my own observation I would call them very ill-conducted people, and their conduct caused such alarm that the people talked about sending for a man-of-war to quell them.

4. The vessels fishing within the three-mile limit are said, within the last seven years down to the present time, to take on an average of twenty barrels a day to each vessel. About five years ago they took about thirty barrels on an average per day. They take those fish at the time of the year when mackerel are number one. The mackerel taken at that time are worth twelve dollars per barrel to our fishermen in the Halifax market. Our number two, large, are good number one in the American market. And if Americans were kept out, our fishermen would make more money by fishing. These statements I believe to be rather under than over the mark.

5. Twenty-five years ago I have seen over a thousand barrels of mackerel taken by thirty men within three weeks at Ingonish, in the county of Victoria. These fish were all taken by boats and nets inshore, some close in to the shore by nets made fast to the shore. These barrels I saw packed and weighed, and all of them I numbered and inspected. These mackerel were taken in the spring, about the middle of June. About 25 years ago, at Cape North, in the county of Victoria, in the fall of the year, about the first of November, within a fortnight, I have seen about seven hundred barrels taken, of which two-thirds at least were number one. These fish (number one) were worth in the Halifax market five pounds per barrel. These latter fish were taken within half a mile of the shore.

6. About fifteen years ago I conversed with an American fisherman who fished off Cape North, and who told me that he was glad when Saturday night came, as he would have a spell then, and that every codfish he took was as long as a splitting-table (about four feet), and besides his own vessel there were other American fishing-vessels.

7. In my opinion, over-fishing may have something to do with the scarcity of the mackerel; but within my knowledge, the fishing has varied, the mackerel, cod, and other fishing being some years good, and others poor. This year I have seen more squid, which is the best bait for codfish, and the best codfish follow them, than I have ever seen in any year during the last fifty years in this bay (Sydney), and to my knowledge codfish always follow the squid.

8. The inshore fishing I consider to be the most valuable, and if the American fishermen were not allowed to come inshore to fish mackerel, it would not pay them to come to our fishing-grounds, most of the mackerel being taken inshore.

9. I think the Americans must take three-fourths of the mackerel inshore.

10. In my opinion, mackerel may have decreased some, the other fish none, since the year 1871. The Americans have lessened the catch of fish for Nova Scotia fishermen.

11. The herring fishery is all inshore, and I know of no herring being taken outshore. The American fishing vessels have nearly all two herring nets with them, and with these they can catch herring for bait.

12. Our Nova Scotian inshore codfish are much superior to that taken by the Americans, commanding a better price in the American markets, and are better cured.

13. The food of the mackerel is found inshore. They come inshore and feed on the small bait found there—a small kind of fish found inshore, and of which the mackerel may be full when taken inshore, also on mussels found inshore on the rocks.

14. The mackerel breed in the North Bay, and around the Magdalen Islands. They feed and breed all round our coasts, in the bays and harbors.

15. In Sydney Harbor (north) the Americans, transship mackerel, which saves them a large amount of time, so that they can take more fish and make a good season.

16. The Americans purchase bait, and also ice, in considerable quantities; without the ice it would be impossible for them to prosecute their fishing voyages. They sometimes purchase a trifle of supplies when they fall short—when they lose an anchor, sail, or chain, without which they would have to return home, and in running home would run a great risk.

17. The Canadian fishing ground I believe to be much superior to the American, and I know of no Canadian fisherman who goes to take a fish in American waters, and I know hundreds of Americans come here and fish.

18. I consider it in no way in the world a benefit to us for Americans to come here and fish. They diminish the catch of fish for our men, injure our fishing grounds, and, in my opinion, it would be much better if they were totally excluded.

PATRICK MULLINS.

Sworn to at South Bar, in the county of Cape Breton, in the province of Nova Scotia, this 21st day of July, A. D. 1877, before me.

J. A. RICHARDSON,
J. P. for and in the County of Cape Breton.

No. 235.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, MICHAEL ROONEY, of Douglastown, in the county of Gaspé, make oath and say as follows:

1. I have been for 30 years a fisherman, and I am practically related to all that appertains to fishing. I am acquainted with all the north coast of the island of Anticosti. I have fished at McDonald's Cove every year for the past 12 years with Mr. Andrew Kennedy, and have been present when he gave his affidavit and have heard it read. I fully concur in all he has stated, and hereby swear that, to the best of my belief, all that he has stated is correct.

his
MICHAEL + ROONEY.
mark.

Witness:

W. WAKEHAM.

The said Michael Rooney has sworn to the truth of the above affidavit, at McDonald's Cove, island of Anticosti, and county of Saguenay, and Province of Quebec, this ninth day of August, A. D. 1877, before me.

P. FORTIN, J. P.

No. 236.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, PETER BRIORD, of Douglastown, in the county of Gaspé, make oath and say as follows:

1. I have been for 30 years a fisherman, and am practically acquainted with all that relates to fishing. I am acquainted with the north coast

of the island of Anticosti. I have fished at McDonald's Cove, in the north coast of the island of Anticosti, for the past 12 years. I have heard Mr. Andrew Kennedy give his affidavit, and it has been read to me. I fully concur in all that he has said, and I hereby swear that, to the best of my knowledge and belief, what he has said is correct.

his
PETER + BRIORD.
mark.

Witness:

W. WAKEHAM.

The said Peter Briord has sworn to the truth of the above affidavit, at McDonald's Cove, island of Anticosti, county of Saguenay, and Province of Quebec, this ninth day of August, A. D. 1877, before me.

P. FORTIN, J. P.

No. 237.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, ANDREW KENNEDY, of Douglastown, in the county of Gaspé, in the Province of Quebec, make oath and say as follows :

1. I am 57 years of age, and have been a practical fisherman for the last forty years. I fished for twelve years on the north shore, at Thunder River, and for the last twelve years I have fished at McDonald's Cove, on the north shore of the island of Anticosti. I am thoroughly acquainted with the fisheries of the north shore of the island of Anticosti, from the east to the west points. I am part owner of the fishing establishment here, and understand thoroughly every operation connected with the taking and curing of fish.

2. The fisheries carried on here are cod, herring, mackerel, and halibut. These fisheries are all within the three-mile limit.

3. The bait used for taking these fish is herring, caplin, squid, and trout; all this bait is taken close inshore.

4. Herring are abundant on this coast, and they spawn along the shore, chiefly, however, at Fox or Bell Bay.

5. The American fishing-vessels have been in the habit of resorting to this coast for the purpose of taking herring by means of seines, and this year, according to reliable information, they have already taken 18,000 barrels at Bell Bay and the neighborhood.

6. Since I first came here I have seen from ten to fifteen American vessels fishing for halibut along this coast every year. Last year, however, there were only two here, and this year as yet none have appeared. Each of these vessels was from 80 to 120 tons; had a crew of from 10 to 15 men, and from 4 to 6 dories. Each dory has two trawl lines of 500 fathoms each, and each trawl line 350 hooks. Some of these vessels used to make two, some only one trip, and their load amounted to from 80,000 to 120,000 lbs. each vessel. When I first came here I could take plenty of halibut; sometimes twenty a day, but now we can hardly take one. My opinion is, and it is the opinion of all the fishermen on the coast, that the Americans have exhausted the halibut fishery here by their excessive fishing with trawls. And not only that, but as when catching halibut they also catch codfish and those generally the largest and as they are not prepared for curing those codfish, they throw them overboard when they don't find on the spot other fishermen with whom they can barter them. This great destruction of the large cod, which

are generally the breeding fish, is of no use to any one and much to be regretted.

7. Mackerel were very abundant now as when I first came here. There seems to have been a falling off for the last two or three years, but this year there is much better prospect.

8. The codfish seem to be as abundant now as when I first came here, but the number varies from year to year, sometimes striking one part of the shore more than another part.

9. Codfish and herring are the chief means of subsistence for the fishermen resorting to this coast, and it is of the utmost importance that they should be preserved as much as possible.

10. I consider the right of fishing in United States waters granted by the Treaty of Washington of no value whatever to our fishermen.

11. It is my opinion also that the free market for our fish in the United States is no advantage to us, for our fish is sold for home consumption or for exportation to Europe and the Brazils.

12. It is of the utmost importance for the future of our fisheries, and for the advantage of the fisheries and fishing interests of this country, that foreigners be not again allowed to participate in our fisheries after this treaty has expired; and the competition of American fishermen in our waters is a great detriment to us, as they prevent us from catching as much fish as we would if we were alone.

13. If the Americans did not possess the right of coming to our in-shores it would be of no use for them to attempt fishing anywhere on the coast of Anticosti.

I hereby swear that the above statement is, to the best of my knowledge and belief, correct.

ANDREW KENNEDY.

The said Andrew Kennedy has sworn to the truth of the above affidavit, at Macdonald's Cove, Island of Anticosti, this ninth day of August, A. D., 1877, before me.

P. FORTIN, J. P.

No. 238.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington :

I, PIERRE BROCHU, of Seven Islands, in the county of Saguenay, and Province of Quebec, make oath and say as follows :

1. I am 64 years of age. I am a practical fisherman. I have lived for 24 years on this coast, 13 of which I have lived at Seven Islands, and at St. Margaret's River, 7 years, and 4 years at Moniquajan. I am well acquainted with the fisheries carried on, on this coast between Moniquajan and Esquimaux Point, on the north shore of the River St. Lawrence, a distance of 200 miles. I am also acquainted with the fisheries of the Island of Anticosti, from Ellis Bay, around the West Point and North Shore of the Island, as far as Cape Observation, a distance of 80 miles.

2. The principal fisheries of the coasts mentioned above are cod, halibut, mackerel, and herring. All these fisheries are carried on within three miles of the shore, except on the St. John and Mingan Banks and the Sheldrake Bank.

3. The quantity of codfish on this coast is, in my opinion, quite as abundant now as it was when I first came here, though the quantity varies from year to year; five years ago the boats averaging from 125 to 150 draughts at Seven Islands and St. Margaret's River.

4. From the time that I arrived here until 1868, the time that the Americans were permitted to fish inshore, I saw large numbers of American mackerelers along the shores, and also halibut fishers; and I have counted often as many as 30 at one time at Seven Islands Bay. They come there for shelter, and for fishing also. When they were prevented from fishing by the coast-guard schooners, after the end of the treaty, we saw but few, though they still continued to come in small numbers in spite of the coast guards. Since the Treaty of Washington I have only seen a few fishing for mackerel and halibut. I estimate the average annual number of mackerel and halibut schooners belonging to the Americans, from Seven Islands to Gadabout, to have been 100. These vessels were all fishing and seining close along the shore within the three-mile limit. They fished inside the limit, because there was no fish outside of the limit. They nearly all loaded. I fished for them, and with them for several seasons, both with the hook and with the seine. This enables me to give accurate information with regard to the fisheries of the Americans on this coast; each of these vessels took from 300 to 800 barrels. About ten of these vessels fished annually for halibut.

5. There was generally one seine for each three schooners, some seines were shore seines, and some were bay seines; even with the bay seines they never fished outside of British waters. Often they threw the seine after a school of fish, and when the seine was drawn near the shore, it was found that they had herring or young codfish, and not mackerel; and as they wanted no fish but mackerel, they would allow the greatest part to perish and rot upon the shore.

6. The halibut-fishing schooners fished along the coast, always within three miles. They stopped fishing in numbers about 7 or 8 years ago. Since that period we only saw a few; this year none. When I first came here I could take as many halibut as I liked, and the people used to sell large quantities, and besides used it largely as food; but now, since the Americans have fished so extensively along the shore, we only catch a few. It is not now worth our while to fish for them. My opinion is that this scarcity, which is so injurious to the people of the coast, and to the interests of the fishermen of this county in general, is due entirely to destructive over-fishing done by the Americans, as I have stated above, by trawls, &c. Now that the fishing for halibut is at rest, the restocking is taking place, as we see more small ones this year; and if the Americans keep away for a certain number of years, this fishing will certainly recuperate, as our fishermen never fish in such an exhaustive manner as to destroy the fishery.

7. We find on this coast, from Point Charles to St. Nicholas, a distance of 120 miles, excellent spawning-grounds, especially at Seven Islands Bay, St. Margaret's Bay, May Islands, Cawee, Trinity Bay, Gadabout, &c. At all these places any quantity of herring can be taken in the spring.

8. The American fishing-grounds are of no use to us; we don't want to go there.

9. Our fish is prepared for the Canadian markets and Europe and Brazil.

10. The population is increasing so fast on this coast, and the fisheries are so needful for their subsistence, that they should not be given away to foreigners; if they are, half our population will have to emigrate. Most of these American vessels trade extensively with the shore population, and sell and land articles without paying duties. The fisheries here are very accessible, as there are many harbors, good anchorage-grounds, and roadsteads.

11. The bait for cod-fishing and halibut and mackerel is very abundant along the shore, and the Americans used to go and get it themselves. I have seen them repeatedly go and dig clams at Seven Islands and the May Islands.

I hereby swear that the above statement is to the best of my knowledge and belief correct.

PIERRE BROCHU.

The said Pierre Brochu, of Seven Islands, has sworn to the truth of the above affidavit, at Moisie, in the county of Saguenay, and Province of Quebec, this sixth day of August, A. D. 1877, before me.

P. FORTIN, J. P.

No. 239.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, ISAAC CHOUINARD, farmer and fisherman of Cape Chat, in the county of Gaspé and Province of Quebec, make oath and say as follows:

1. I have been engaged in fishing on this coast for about twenty years.

2. I am well acquainted with the fisheries of the south coast of the St. Lawrence from Matane to Gaspé, of the north shore from Point des Monts to Esquimaux Point, north and west coast of Anticosti, Bay de Chaleur, and the Magdalen Islands. I was engaged as fisherman on board an American mackerel fisher for one season, the summer of 1863; we made two trips of 850 barrels each trip, both of which took place within ten weeks. The first trip we took 100 barrels with the seine; the rest were taken with hook and line. The second trip was made entirely with theseine, and we filled our vessel in five days; that is to say, the seine was hauled once, from the shore at Cape St. Nicholas on the north shore of the St. Lawrence, and contained no less than 1,200 barrels; the seine was moored, and 850 barrels were taken from the seine, and the seine was capsized and the remaining 350 barrels were allowed to go, we having no means of preserving them; many of these were dead and became a total loss. The first voyage was made partly on the coast of Gaspé and partly in the Bay of Chaleur; the fish we caught were taken entirely within the three-mile limit in both voyages—that is, entirely in British waters. We also made a third voyage in September and October on the banks off the Magdalen Islands, where we loaded with codfish and halibut. The vessel was of 100 tons and hailed from Boston.

3. Mackerel was very abundant on this coast formerly; for the last few years they have been scarce; this year they are appearing in abundance.

4. According to my belief, the scarcity was caused by the great quantity taken by the Americans, and as they have not been fishing in any numbers for a few years back, the quantity of mackerel is again increasing. The year that I fished with the Americans it was reckoned that seven or eight hundred American vessels were fishing in the Gulf of the St. Lawrence; as far as I could see and learn, they were all fishing within the three-mile limit.

5. I affirm that the presence of so many American vessels in our waters fishing for mackerel was most injurious to our mackerel fisheries, as it must tend to diminish the supply, the methods practiced by the Americans, either by seines or by hook and line, enabling them to take such large quantities so easily.

6. The privilege of fishing in American waters is of no value to us. I have no knowledge of any Canadian vessels being engaged in fishing in American waters.

7. The free market for our fish in the States is of no use to us, as our fish is prepared either for home consumption or for foreign markets other than the American, where they command better prices.

8. It is my opinion that it is of the greatest importance to us as Canadians to keep our fisheries entirely to ourselves as a means of developing our own fisheries, and fostering our mercantile marine, and giving employment to our maritime population, and thereby keeping them from emigrating to foreign countries.

I swear that the above statement is to the best of my knowledge and belief correct.

his
ISAAC + CHOUINARD.
mark.

Witness:

W. WAKEHAM.

The said Isaac Chouinard has sworn to the truth of the above affidavit, at Cape Chat, in the county of Gaspé, this thirty-first day of July, A. D. 1877, before me.

P. FORTIN, J. P.

No. 240.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, AUSTEN LOCKE, of Lockeport, in the county of Shelburne, merchant, make oath and say as follows:

1. I have been engaged in the buying and selling of fish for twenty years, in fishermen's supplies, and outfitting fishing-vessels, and am well acquainted with the inshore fisheries in Shelburne County.

2. From eight to ten American fishing-vessels run into this port within the two or three years now past. They purchased ice and bait and supplies to a small extent. They are fitted out at home with supplies and only purchase when they run short, which is a great accommodation to them. The American vessels which run in here sell their small fish, which would be an inconvenience for them to carry home; by doing this they take home a cargo of large and valuable fish. The American vessels which come in here and take ice and bait, trawl for codfish off this coast within twelve or fifteen miles. In my opinion trawling is an injurious method of taking fish, as it destroys the spawn fish. Out of this port there are about one hundred vessels engaged in the fisheries—mostly codfish—all fitted out here. The most of these vessels take codfish by hand-lining. The American vessels which fish off this coast take, during the year, about one thousand quintals of codfish each, and could not catch this fish unless they got bait and ice in our harbors to enable them to do so.

3. In the falls of seventy-one, two, and three, I had a vessel running to the North Bay for mackerel, and in seventy-one she made a good trip. She took three hundred and forty barrels of mackerel. She carried fifteen men. From seventy-one back to sixty-three I had vessels engaged in the mackerel fishery, and in my experience this fishery has varied, being some years good and others poor. Since seventy-three

the codfish have fallen off to some extent; this I attribute to trawling, as already stated.

4. The fishing-grounds are injured by throwing overboard offal, and so many American vessels throwing over this offal are very injurious to the grounds.

5. The inshore fishery is of greater value than the off-shore fishery, and twice the value of the off-shore fishery.

6. Canadian fishermen catch codfish in inshore waters along the coast.

7. Since eighteen hundred and seventy-one the number of American vessels engaged in taking codfish has very largely increased—there are more than five times as many.

8. Last year from four to five thousand barrels of herring were taken in the county of Shelburne; these fish are taken all inshore, within three miles of the shore.

9. In proportion to the whole number of mackerel taken in American waters they do not get so many number one as there are taken in Canadian waters.

10. It is a great advantage to American fishermen to be able to procure bait and ice in which to preserve it in the bay and harbors along the Canadian coast, and without this bait and ice they could not successfully carry on the fishery on the banks off this coast. They purchase this bait in this county, and do so because they save time and expense by so doing. It would require too much time to catch this bait to any large extent inshore in this county. The privilege of getting bait inshore in Canadian waters interferes with the supply for Canadian bankers, as they make the bait scarce, especially in the early part of the season.

11. I have never known nor heard of any Canadian vessels except two from this county fishing in American waters. One of these vessels I myself owned. She went from here to get seines at Gloucester, and only caught two barrels of mackerel on the American coast. She reported that she did not see a school of mackerel on the American coast. This vessel was in American waters during the month of July now past.

12. The privilege of getting bait in Canadian ports is worth six hundred dollars to each American vessel.

13. So many American vessels running down here to fish make the fish much more scarce for Canadian fishermen. They first employed trawling, and compelled Canadian fishermen to do so in order to compete successfully with them. By trawling the expense in catching is double. Nova Scotia vessels out of this port have commenced trawling within the last three years.

14. I have known of cases of smuggling by American vessels in this county, particularly kerosene-oil.

AUSTEN LOCKE.

Sworn to at Lockport, in the county of Shelburne, this 23d day of August, A. D. 1877, before me.

JACOB LOCKE,
Justice Peace.

No. 241.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, DANIEL MCADAMS, of Lockport, in the county of Shelburne, master mariner, make oath and say as follows:

1. I have been engaged in the fisheries for the past twenty-four years.

I have taken codfish in the North Bay, along the southern coast of Nova Scotia, on the Labrador coast, and on the Banks. Along the southern coast of Nova Scotia, in the North Bay, and on the Labrador coast I have taken herring.

2. I left the North Bay a fortnight ago and saw a large number of American mackerel-vessels there and likewise round Prince Edward Island. I saw as many as thirty sail in one day. Last summer I also saw a large number of American vessels engaged in taking mackerel. Last year and this year I have seen many American vessels engaged in taking codfish in the North Bay. These American mackerel-vessels carry from fifteen to twenty men each. The American vessels which I saw had on board about three hundred barrels of mackerel each. The Americans take this mackerel inshore within three miles of the shore.

3. In the North Bay the American codfish-vessels carry from twelve to sixteen men each, and are fitted out to take from a thousand to fourteen hundred quintals of fish to each vessel.

4. The Americans catch almost all their codfish by trawling. Both last year and this I saw American vessels trawling for codfish around the Magdalen Islands within three miles of the shore. This year I have seen as many as seven American schooners trawling inshore within three miles of the shore for codfish. An American schooner which lay alongside of our schooner took inshore, within three miles of the shore, from ten hundred to twelve hundred quintals; she took as many as one hundred and fifty quintals in one day. The American vessels fished to a large extent inshore this year, as the fish were more plentiful this year within three miles of the shore than off. Four years ago I have seen the Americans set their trawls inshore around Scaterie. Since 1871 the Americans fished inshore whenever the fish made in.

5. In the North Bay last summer I have counted in sight from forty to forty-five vessels at one time, most of whom were Americans. This number I have counted day after day. Nearly all the American vessels, as already stated, take codfish by trawling. Most of the Canadian vessels hand-line. Trawling I consider an injurious method of taking fish, as it destroys the mother fish. In hand-lining very few mother fish are taken. In trawling the bait lies dead upon the bottom, and the mother fish which are on the bottom bite at it. In hand-lining the bait is almost continuously on the move.

6. On the Canadian coast of Labrador four years ago and for ten years previous, every year I have seen American vessels engaged in seining codfish on the shore. This I consider a bad method of taking fish, as it destroys all kinds of fish, and the large and very small codfish are taken. I have never seen any Canadian vessel seining codfish. The American schooners on the Labrador coast carry about twenty hands each, and are fitted for from two thousand to two thousand two hundred quintals, and generally take eighteen hundred quintals each.

7. I have seen many of the American vessels around the Magdalenes fishing herring and mackerel for bait within the last six years. These herring and mackerel the Americans take in nets. Nearly all the American vessels engaged in cod fishing in the North Bay catch their own bait inshore within three miles.

8. I have known American vessels on the Labrador coast to take a thousand barrels of herring by seining on the shore.

9. The mackerel fishery to my knowledge has always varied. In seventy-one, two, and three, there were good catches. The herring fishery is almost always good. The cod fishery in the North Bay and on the banks during the past five or six years has fallen off to a large extent,

particularly the off shore codfish in the North Bay. This I attribute to overfishing, and to trawling as already stated.

10. The throwing overboard of offal is very injurious to the fishing grounds, as it drives the fish away, injures the young fish, and destroys the spawn.

11. In Canadian waters the inshore fisheries are in my opinion double the value of the off shore fisheries.

12. The herring fishery in Canadian waters is all inshore. The Americans get them for bait, both buying and catching them. They buy in Nova Scotia bays and harbors along from Cape Sable to Scatenec. They buy because it saves time and expense, and without this bait, and ice in which to preserve it, they could not carry on the Bank fishing.

13. The Americans come along the southern coast of Nova Scotia early in the spring when bait is scarce, and gobble it up, which interferes with Nova Scotia bankers, and vessels running to the North Bay.

14. It would be a great benefit to Nova Scotia fishermen if the Americans were excluded from our inshore fisheries, and I know of no benefit whatever which we derive from American fishermen.

DANIEL McADAMS.

Sworn to at Lockeport, in the county of Shelburne, this 23d day of August, A. D. 1877, before me.

AUSTEN LOCKE, J. P.

No. 242.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, MESSIE FOURNIER, of Grande Vallée, in the county of Gaspé, and Province of Quebec, make oath and say as follows:

1. I have been fishing in this place for 28 years. I am a practical fisherman and am well acquainted with the fisheries of this coast.

2. Before the American fishermen began fishing on this coast for halibut, this fish was to be caught in great abundance, and we frequently loaded our boats when fishing for cod. At this present time, and for several years back, we can hardly take any; in fact, not even enough for our own consumption. This complete destruction of our halibut fishery I believe is due solely to the exhaustive manner in which the Americans fished for halibut, by means of trawl lines, having an immense number of hooks.

3. Before the American schooners began fishing in our inshore waters for mackerel, as they did in such great numbers during the existence of the Reciprocity Treaty, mackerel existed in great numbers all along the bays and coves. Toward the latter years of the Reciprocity Treaty, the quantity of mackerel had sensibly fallen off. Last year and this present summer they are again to be found in great numbers. I attribute the scarcity of a few years ago to the great drain caused by the large fleet of Americans that fished here; and I consider that the present increase is altogether owing to the fact that for some years back the schools of mackerel have not been so much disturbed.

4. I have seen 32 American schooners anchored among the net moorings close inshore at the same time; but they used to come in less numbers almost every week during the mackerel season. They interfered with the drifting for bait and the setting of our herring-nets.

5. The crews of some of these vessels used to come ashore and tramp

over our crops, force themselves into our houses in the most rude manner. I myself was forced to keep guard in my house, as well as my neighbor, for eight days, fearing insults to the women of our households during the night; and one morning one of these schooners in getting under way, carried off five herring-nets, three that were on the mooring, breaking them on the moorings, and two nets that were on the drift, with the boat belonging to one of our men named Landry, the nets of course being fast to the stern of the boat. The schooner with her anchor caught in the net, dragged the boat, with the two men in it, stern foremost for 9 miles, the schooner's crew all the time laughing and making a joke of it. The lives of these two men being in constant jeopardy, the Americans never made the least effort to clear the net, by coming in the wind, as could have been easily done. The boat and men only got clear when the ropes broke, and the nets were lost to these poor fishermen.

I hereby swear that the above statement is, to the best of my knowledge and belief, correct.

MESSIE ^{his} + Fournier.
mark.

Witness:

W. WAKEHAM.

The said Messie Fournier has sworn to the truth of the above affidavit, at Grande Vallée, in the county of Gaspé, and Province of Quebec, this 2d day of August, A. D. 1877, before me.

P. FORTIN, *J. P.*

No. 243.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, WILLIAM HADDON, of Grosse Isle, Magdalen Islands, make oath and say as follows:

1. I am 36 years of age, and have been engaged in the fisheries from Grand Entry Harbor, and am well acquainted with the fisheries of Grand Entry and of the eastern shores of the Magdalen Islands.

2. The herring spawn without fail every season at Grand Entry, and they go in the lagoon, and they spawn outside as well. I have seen the eggs in the water and on the beach. I have seen the spawn after a heavy north wind cast on the beach knee deep. The people of Grosse Isle take the herring with nets, but the American fishermen take them with seines, which seines they haul on shore, and from the shores, they going themselves on shore to haul the seines ashore. They also go on shore to mend their nets and seines.

3. The American trawlers on the Banks resort to Grand Entry in June to get bait. I have seen 20 and 30 sail every spring for the last five or six years. They go on shore to dry their nets, and also hire nets from the inhabitants. I believe that trawling and throwing offal overboard is injurious to the cod and mackerel fisheries.

I hereby swear that the above affidavit is, to the best of my knowledge and belief, correct.

WILLIAM HADDON.

The said William Haddon has sworn to the truth of the above affidavit, at House Harbor, Allright Island, Magdalen Islands, county of Gaspé, and Province of Quebec, this twentieth day of August, A. D., 1877, before me.

P. FORTIN, *J. P.*

No. 244.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, JOHN CARTER, of Port Mouton, in the county of Queen's, at present of Lockeport, in the county of Shelburne, fisherman, make oath and say as follows :

1. I have been engaged in fishing for eighteen years in American vessels, and in Nova Scotia vessels for twelve years. I was in an American vessel this spring. While in American vessels I fished codfish on the Western and Quero Banks, and trawled codfish in the North Bay. I fished mackerel in American vessels year after year, down until the fall before last, around the north side of Cape Breton, around Prince Edward Island, the Magdalens, and on the eastern side of New Brunswick.

2. When in the North Bay, I have seen at one time five hundred fishing-vessels, most of whom were Americans, engaged in taking mackerel. In the falls of seventy-one, two, and three, the catch of mackerel in the North Bay was good. In the fall of seventy-three I was in the American schooner Waterfall, of Southport, Me., and we took in four weeks three hundred and twenty barrels; a crew of thirteen hands were on board. The mackerel trim the shore, and the most of them are taken inshore.

3. When fishing on the Banks in American vessels we always made good fares, taking on an average from seven to eight hundred quintals each trip, and two trips each year, carrying from eleven to twelve men. This I have done for six years now past.

4. The Americans get their bait for trawling inshore in the bays and harbors of Nova Scotia, and along the Canadian coast, and without this bait, and ice in which to keep it fresh, they could not carry on trawling.

his
JOHN + CARTER.
mark.

Sworn to at Lockeport, in the county of Shelburne, this 23d day of August, A. D. 1877, before me, the same being read over to the within-named deponent.

JACOB LOCKE, J. P.

No. 245.

Came and appeared before me, one of Her Majesty's justices of the peace, in and for the district of Gaspé, WILLIAM McLEOD, esq., J. P., who deposeth and saith that he has had an interview with Capt. Henry Smith, master of schooner W. T. Smith, of Gloucester, Mass., while lying in the harbor of Port Daniel, on a mackerel-fishing voyage, about ten days ago.

He being the same Captain Smith mentioned by him, William McLeod, in his evidence before the Commission at Halifax, he referred him to some remarks he had made to him some few years ago, on the evil results of seining on our shores and throwing fish offal overboard, particularly in our harbors and near the mouths of rivers where salmon resort and other young fry propagate. That he, the said Capt. W. Smith, does recollect that conversation, and also of stating that it was in comparison to killing the goose that laid the golden eggs. He,

the said Captain Smith, also stated that he would depose to the same before any legal tribunal if called upon; and that large quantities of mackerel were frequently taken that were unfit for market, and were consequently thrown overboard, to decompose and pollute the waters where thrown, which, if left to nature, would become of inestimable value to other fishermen at some future time.

And that he would willingly sign a petition against the use of seines altogether for mackerel-fishing, either to the United States or the Dominion Governments. Moreover, that it was his, Captain Smith, belief that if the practice of seining was continued for ten years consecutively, it would to a great extent annihilate the mackerel-fishery both in the Dominion and American waters.

And that he has been connected with the fisheries during the last thirty-five years, and feels competent to give an opinion on that subject. That he is a native of Nova Scotia, but has resided for several years in Salem, Mass.

And allowed the said William McLeod to use his name with reference to the above subject.

WILLIAM MCLEOD.

Sworn before me, at Port Daniel, this twenty-seventh day of August, in the year of our Lord one thousand eight hundred and seventy-seven.

W. MILLAN, *J. P.*

At same date, also appeared before me, the undersigned justice of the peace, Joseph Horie, of Port Daniel, who deposeth and saith that he was present and witnessed the conversation in the margin.

JOSEPH HORIE.

Sworn before me the day and year above mentioned.

W. MILLAN, *J. P.*

No. 246.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, ALLAN MATTHEWS, of East Ragged Islands, in the county of Shelburne, fisherman, make oath and say as follows:

1. I have been in the habit of supplying ice to fishing vessels during the past two years, both Canadian and American vessels. I have last year and this present year supplied ten Canadian vessels with ice. The Canadian vessels take from one ton to three tons each. Last summer and the present summer I supplied two American schooners with ice. A ton and a half each. They used this ice for bait which they got in this harbor. With this bait the American vessels fished on La Have, Brown, and Port LeBear Banks off this coast. They take codfish on the said Banks by trawling.

ALLAN MATTHEWS.

Sworn to at Lockeport, in the county of Shelburne, this 22d day of August, 1877, before me.

AUSTIN LOCKE, *J. P.*

No. 247.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, DAVID MURRAY, jr., of Port Mulgrave, in the county of Guys-

borough and Province of Nova Scotia, collector of customs, make oath and says as follows:

1. I have been acquainted with the fisheries on our coasts for the past twenty-four years, during twenty-one years of which I was engaged in the fishing business, and for the past four years I have been collector of customs at this port.

2. During the Reciprocity Treaty I have known as high as eight hundred sail of American mackerel and codfishermen go in the Gulf of Saint Lawrence in one season. Of late years about half that number. For the last two years there have been about three hundred sail each year, including cod, mackerel, and herring. These vessels average about fourteen men each. They fish all around the shores of the Gulf of Saint Lawrence. During the Reciprocity Treaty the mackerelers averaged about eight hundred barrels per vessel each season; of late years only about half that quantity. I have known eighteen hundred quintals to be landed in one year by an American cod-fishing vessel. The average catch of codfish I estimate to be about nine hundred quintals per vessel each season.

3. The Americans catch the codfish with trawls, and the mackerel with seines, and with hook and line.

4. I consider that the fishery around our coasts is much injured by the Americans throwing overboard offal and garbage. I have been informed on the best of authority that the codfishing at Banquereau has within the last two or three years been totally destroyed by this practice. On the Grand Bank, as I have been informed, the fishermen sometimes draw their trawls through "gurry" (that is the entrails and refuse parts of codfish) and bring it up on their lines. Wherever this practice is carried on, the fishermen say that the fish are driven away.

5. I have understood American fishermen to say that the greater part of the mackerel are caught within the three-mile limit, and at the present day a greater portion of the mackerel than formerly is caught inshore.

6. The value of the inshore fishery, so far as the mackerel and herring are concerned, is of much greater value than that outside.

7. The inshore boat-fishery is much injured by the Americans running in among the boats and throwing bait in larger quantities and of better quality than our fishermen, and by this means enticing away the fish away from the boats. The schooner Alice, Capt. H. B. Joyce, took one hundred and twenty "wash barrels" of mackerel on Sunday, the 22d of July last, close inshore.

8. The American fishermen are beginning to use purse seines on our coasts extensively during the last two or three years. These seines are very injurious to the fishery, as they uselessly destroy great quantities of herring and small mackerel, which are thrown away. They also tend to break up the schools of mackerel and drive them away. The American codfishermen generally buy herring and mackerel from our fishermen for bait, and catch squid for the same purpose themselves.

9. Halibut are caught to some extent by American fishermen in our waters, close inshore.

10. The mackerel caught of late years in Canadian waters are larger than those caught in United States waters, but being generally longer in pickle than the American mackerel, do not bring so high a price when put in the market.

11. The principal feeding and breeding places of the mackerel are around the Magdalen Islands and Prince Edward Island and in the Bay of Chaleur, and in all cases inshore.

12. The privilege of transshipping cargoes on our coasts is of great value to the American mackerelers. It enables them to make a greater number of trips and catch more fish than they otherwise could; and by this means they save about three weeks on each trip they make. I have known an American mackereler to catch a fare of fish in the time that another vessel was going to the United States and returning.

I consider it a very great privilege to the American codfishermen to be allowed to procure bait on our shores, either by purchase or by catching it themselves. They consider it more profitable to buy bait than to spend time in catching it; for this reason, that their ice would melt and their bait already obtained would turn sour while they were fishing for more. They, therefore, obtain almost all their bait by purchase from our fishermen. The Americans cannot profitably carry on the deep-sea fishery without obtaining bait on the shores of the Dominion or Newfoundland. Indeed, I do not see how they can carry on the deep-sea fishery at all without obtaining bait in Canadian or Newfoundland harbors or shores.

13. The privilege of fishing in American waters is of no practical advantage whatever to Canadians.

14. The value of procuring bait on our shores is worth to American codfishermen almost the whole value of their trip, as without getting the bait they could not catch the fish at all. And in the winter and summer seasons the Americans cannot procure bait except in Canada or Newfoundland.

15. The Canadian inshore boat fishery is injured to a great extent by the American vessels carrying on their fishing operations within the three-mile limit, especially by seining and throwing of bait.

DAVID MURRAY, JR.

The said David Murray, junior, was sworn to the truth of this affidavit at Port Mulgrave, in the county of Guysborough, this 30th day of July, A. D. 1877, before me.

JAS. PURCELL,

A Justice of the Peace.

No. 248.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, THOMAS CONDON, of Guysboro', in the county of Guysboro', merchant, make oath and say as follows:

1. I have been in engaged in the fisheries for five-and-twenty years, both for myself and others, in the county of 'Guysboro' and other parts of the eastern coast of Nova Scotia. During that time I have been actively engaged in the business, and have a general and fair knowledge of the business of fishing as carried on by both the Canadians and Americans.

2. I have known as many as seven hundred American vessels fishing on our coast during one season for mackerel alone. Some years there would not be so many. Their average tonnage would be from sixty to one hundred per vessel. The crews would average fifteen. When the fishing was good and they enjoyed the privileges now enjoyed under the Treaty of Washington, each American vessel would catch on an average one thousand barrels. This average I consider none too large. When they fished on our coast they used to land and refit. This enabled them to catch double the quantity of fish.

3. Whenever the Americans could they fished inshore. This they did during the Reciprocity Treaty and at other times when they could evade the law. This they also do since 1871. When restricted from our inshore fisheries their voyages were broken up and their vessels were ordered home. This I learned from dozens of the American masters themselves, while I did business at Port Mulgrave for W. O. Heffernan.

4. The value of the inshore fisheries are immensely more valuable to the people of Eastern Nova Scotia than those outside. Very few fish are caught by our people outside.

5. Where the practice of enticing fish off shore has or is being carried on, it is very injurious in drawing the fish beyond the reach of many of our own people.

6. All kinds of fish taken in our waters are caught inshore by our fishermen. Whenever there are a large number of fishing vessels in the North Bay there is less fall mackerel taken, which is and has been one of our most important inshore fisheries. The reason for this I believe to be that the excessive quantity of bait used in the bay keeps them from our shores so late that our fishermen cannot take them. Besides, when the Americans frequent our harbors and bays it injures our inshore fisheries and destroys the fishing gear and nets of our fishermen.

7. I consider the privileges granted to the Americans by the Washington Treaty of immense value to them, and the withdrawal of them would completely cripple their fishing operations. By enjoying these privileges they are enabled to double their trips and more than double their catches. Indeed, without such privileges I think it would be impossible for them to prosecute the fisheries. They catch and buy their bait. When they buy it, it is to serve their own interests, not ours. The right to land, catch, and buy bait inshore is indispensably necessary to them for the prosecution of their fisheries.

8. I am not aware of any Canadian vessels fishing in the American waters. The privilege to us I consider of little or no value.

THOMAS CONDON.

Sworn to at Guysborough, in the county of Guysborough, this 26th day of July, A. D. 1877, before me.

JAMES A. TORY, J. P.
For the County of Guysborough.

No. 249.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, ALEXANDER MCKENZIE, of Crow Harbor, in the county of Guysboro', fisherman, make oath and say as follows:

1. I have been engaged in the fisheries during the last thirty years, in and about the northern coast of Nova Scotia, catching all kinds of fish caught along the Nova Scotian coast.

2. Crow Harbor is situated in Chedabucto Bay. Since 1871 American fishermen come into the harbor for bait and ice, to an average of fifty each year. They fish the greater part of their bait, but some they buy. The quantity of squid alone caught by them in this harbor since A. D. 1871 will average twelve hundred dollars annually, at least. They take quantities to the Banks for sale. Besides squid, they also buy herring and mackerel for bait. The American vessels come in twice and sometimes three times after bait.

3. When the American vessels are in fishing bait few fish can be caught. The principal fishing carried on in Crow Harbor is seine and net fishing. The American vessels are anchored on the seine grounds; their boats are all around the harbor and coast; the catching of bait and the noise made by them by firing guns, and in other noises made by them, break up the schools of mackerel, so that they are frightened off, and prevent them from coming in so that the fishermen can catch them. Neither can our fishermen set their nets when American vessels are coming in and out, or when they are at anchor, because the anchors and ships tear and destroy them. For these and many other reasons it has been very injurious to our fisheries to have the Americans come in for bait. In fact our fishing in this harbor is almost destroyed. Formerly the mackerel fishing in this harbor was one of the best in Canada.

4. The value of our inshore fisheries is immeasurably greater to us than those outshore. The whole fisheries of this bay are inshore.

5. Since 1871, wherever the Americans have resorted for bait the fishing has decreased. This is particularly the case in this harbor. The failure of the fishing in this harbor during the last few years, I attribute largely to the presence of the American fishermen in our harbor.

6. Mackerel feed upon shrimp and other small fish. This food is found along our shores where the mackerel feed. I think a portion of the mackerel spawn or breed along the coast of Nova Scotia, but the greater number spawn on the Bank and other shoal waters of the North Bay.

7. I consider it a great advantage to the Americans to be allowed to land and dry their fish and transship their cargoes. In this way they are enabled to catch a much larger quantity of fish, and, in fact, without the advantages granted by the Treaty of Washington I cannot see how they could carry on the deep-sea fisheries with profit. It will at least enable them to double the quantities they would otherwise catch.

ALEXANDER McKENZIE.

Sworn to at Crow Harbor, in the county of Guysboro', this 26th day of July, A. D. 1877, before me.

WM. S. McKENZIE,
J. P. for the County of Guysborough.

No. 250.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, MICHAEL ROBERTSON, of Port Jollie, in the county of Queen's, fisherman, make oath and say as follows:

1. I have been engaged in fishing for upwards of thirty years. I have fished along the southern coast of Nova Scotia, around Cape Breton, on the eastern side of New Brunswick, around Prince Edward's Island, around the Magdalenes, and on the Labrador coast, both on the Canadian and Newfoundland coast. I am well acquainted with the inshore fisheries in Queen's County.

2. When fishing in the North Bay I have often seen from two to three hundred American vessels engaged in fishing at one time. These vessels were engaged in taking mackerel, and took the most of them inshore within three miles of the shore, and it would not pay to send a vessel to the North Bay unless she could catch mackerel within three miles of the

coast. I was in the North Bay when the fisheries were protected by cutters, and saw the Americans kept off beyond three miles, and they took scarcely any mackerel while our vessels within three miles of the shore were doing well.

3. In this harbor large quantities of clams are got for bait. About fifty sail of vessels are supplied every year with this bait. These vessels take from twenty-five to thirty barrels each. These vessels thus supplied are Canadian. They say the clams got here are just as good as the American. These vessels use these clams for bait in taking mackerel and codfish. The codfish taken by clam bait is with hook and line.

MICHAEL ROBERTSON.

Sworn to before me this 17th day of August, 1877.

S. T. N. SELLOX, *J. P.*

PORT JOLLIE, 1877.

No. 251.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, GEOFFREY W. PUBLICOVER, of Getson's Cove, in the county of Lunenburg, master mariner, make oath and say as follows:

1. I have been engaged in the fisheries for twelve years down to the fall of 1873 inclusive. I fished along the southern coast of Nova Scotia, around Cape Breton, on the eastern side of New Brunswick, around Prince Edward's Island, around the Magdalenes, on the Canadian coast of Labrador, and am well acquainted with the inshore fisheries in Lunenburg County. I have taken all the kinds of fish found on the above-mentioned coasts.

2. I have seen in Port Hood Harbor at one time four hundred sail of mackerel vessels, of which upwards of three hundred were Americans. I have seen in the fall of 1873 one hundred and eighteen vessels engaged in taking mackerel, of whom one hundred at least were American vessels. These vessels were all in sight. There were many which we did not see. I have often made calculations with Nova Scotia and American skippers, and during the falls of 1871, 1872, and 1873, we put the American vessels engaged in taking mackerel at over four hundred sail on an average for the three years. These vessels take the most of their mackerel inshore, and in my opinion it would not pay to fish mackerel in the North Bay unless they can be taken inshore.

3. These American mackerel men carry from fifteen to twenty-two hands. These vessels take from two to six hundred barrels on each trip, and make from three to four trips. In the falls of seventy one and two many of them made four trips and took as many as two thousand barrels of mackerel in the year.

4. I have seen many American vessels engaged in taking codfish in the North Bay. These vessels carry about twelve men each and take from about ten to twelve hundred quintals of codfish during the season. These vessels take fish inshore within three miles of the shore, and I have seen them take codfish by trawling close into the shore at Seaterie. They take fish wherever they can get them.

5. I have frequently seen the Americans take herring around the Magdalenes. These vessels carry about from eight to ten hands, and take from one thousand to two thousand barrels each. I have seen the Americans take herring and codfish on the Canadian coast of Labrador.

These fish they take by seining on the shore. These vessels take about two thousand barrels of herring each. The codfish vessels take about two thousand quintals each.

6. Mackerel, in my experience, have varied; in the falls of seventy-one and seventy-two the catch of mackerel was more plentiful than I have ever seen it for over ten years. In the fall of seventy-three my vessel, with a crew of sixteen hands, took in a few weeks two hundred barrels of mackerel. Codfish, in my experience, has remained about the same. The herring fishery has always been good.

7. The Americans formerly took mackerel with hook and line during a few of the last years I was there. I saw the Americans use purse-seins. These purse-seins I consider very bad for the fishery. They take both large and small mackerel; they break up the schools of mackerel and frighten them away. I have never seen nor heard of any Canadian vessel using a purse-seine. I am acquainted with over two hundred Nova Scotian vessels. The Americans take codfish in the bay mostly all by trawling. Many of the Canadian vessels take codfish with hand lines.

8. In my experience the Americans fished inshore whenever they could, whatever the terms of the treaty were. I have seen two American vessels taken by the cutter Sweepstake in one day.

9. I think it would be a great benefit to Canadian fishermen if the Americans were excluded from our inshore waters, and I know of no benefit that we derive from American fishermen whatever.

GEOFFREY W. PUBLICOVER.

Sworn to at Getson's Cove, in the county of Lunenburg, this 10th day of August, A. D. 1877, before me.

JOSEPH W. LOCKHART.

No. 252.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, JAMES S. SEABOYER, of Rose Bay, in the county of Lunenburg, merchant, make oath and say as follows:

1. I was engaged in the fisheries for twelve years, down as late as 1869. I fished along the southern coast of Nova Scotia, around Cape Breton, the eastern side of New Brunswick, around Prince Edward's Island, around the Magdalenes, and on the Labrador. I took principally mackerel, and I have fished also codfish. I have fished for one season in an American vessel, Charles P. Thompson, of Gloucester. We took all mackerel, and took them mostly all inshore within three miles of the shore; and in my opinion it would not pay to go to the North Bay to catch mackerel unless they can fish inshore; nor do I think it would pay to fit out a vessel for the North Bay if she had to fish outside of the three-mile limits. The American vessel that I was in was from the latter part of August till the latter part of October in the North Bay, and took in that time three hundred barrels of mackerel. The men's share averaged about one hundred dollars apiece. The Americans get bait around here at Moser's Island, and have got it in considerable quantities during the past six years.

2. When I was in the bay, the bulk of the Americans transshipped their cargoes at Canso, and by doing this they save time, expense, and take more fish.

JAS. S. SEABOYER.

Sworn to at Rose Bay, in the county of Lunenburg, this 8th day of August, A. D. 1877, before me.

JAS. H. WENTZEL, *J. P.*

No. 253.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, THOMAS RITCEY, Sr., of Lower La Have, in the county of Lunenburg, fisherman, make oath and say as follows :

1. I have been engaged in the fisheries for thirty-three years, and have a vessel now engaged in the fisheries. I have fished along the southern coast of Nova Scotia, around Cape Breton, Prince Edward Island, the eastern side of New Brunswick, and around the Magdalen Islands and Lower St. Lawrence. I have fished mackerel, herring, and codfish, and all the fish taken in Canadian waters.

2. I have seen in one day, in the North Bay, upwards of one hundred and fifty sail engaged in taking mackerel. All those vessels were American. We often made calculations among ourselves, and put the American vessels down at between five and six hundred in the North Bay. The American vessels carried from fifteen to twenty-five hands. The Americans fished in close to the shore, and took mackerel wherever they could get the most of the mackerel. The Americans got inshore. Very seldom they got much mackerel three miles from the shore. In my opinion it would not pay the Americans to go to the North Bay to fish mackerel unless they could fish within three miles of the shore. I have seen the Americans trawl inshore within three miles for codfish around Prince Edward Island.

3. The American vessels averaged about four hundred or upwards barrels to each vessel on each trip. They average two trips. The codfish-vessels carry from twelve to eighteen men, make two trips, and take from eight to twelve hundred quintals to each vessel on each trip.

4. In my experience mackerel has always varied, being some years good and others poor. Overfishing during the past few years may have something to do with the falling off in mackerel. This year mackerel have struck in plenty. The cod-fishing during the past fifteen years has been good, and if bait is plenty, plenty of codfish can be had. The herring has always been plenty.

5. The Americans take mackerel mostly with hood and line. I have seen them seining them around North Cape, in Prince Edward Island, with purse-seines. This plan of taking mackerel with purse-seines is injurious to the fisheries. I never saw any Canadian vessels using purse-seines. The Americans take codfish mostly by trawling inshore and off shore, and wherever they can catch them. Trawling, in my opinion, will be the ruination of the codfish, as by it the mother fish are taken. In trawling, the bait lies still upon the bottom ; in hand-lining the bait is moving, and very few fish are taken. Upwards of twenty five years ago I have seen Americans trawling. Nova Scotians never made a practice of trawling until the last four or five years, when they were compelled to do so in order to compete with the Americans.

6. The throwing overboard of offal I consider very injurious to the fishing grounds. I have seen the Americans throw overboard fish under a certain number of inches, which I also consider injurious to the grounds. By these practices the fish are glutted and driven away. The throwing overboard of the sound-bone I consider injurious, and I have often

caught fish with sound-bones in them in a consumptive state. This offal is also destructive to the spawn.

7. The Americans made but little difference under any treaty. They fished inshore when the cutters were out of sight, and made off when the cutters appeared. It was reported again and again that the American vessels carried two registers.

8. The inshore fishery is double the value of the off shore fishery.

9. I have often been lee bowed by the Americans. I have often seen them running into Nova Scotia vessels, and I have had my own vessel injured by them. They used to throw overboard bait and take the fish away from us.

10. The Americans get bait and ice all along our coast in the bays and harbors, wherever they can get it quickest and cheapest. They get this bait in order to carry on the Bank fisheries, and without this bait and ice it would be impossible for the Americans to carry on successfully the Bank fishery.

11. Since 1871, the number of fish has not increased. This is owing, in my opinion, to overfishing and the improper methods employed by the Americans in taking fish.

12. The Americans, since 1871, have injured Canadian fishermen by taking large quantities of fish by trawling and other improper methods of taking fish.

13. The herring are chiefly taken inshore, and the Americans purchase them for bait in order to save time.

14. The mackerel feed inshore and make inshore to spawn, and I call them an inshore fish.

15. I have seen Americans land their fish and then go out on the fishing ground to take more. By so doing they save time and expense and take more fish, as a vessel can carry home more than she can fish with.

16. It would, in my opinion, be impossible for the Americans to carry on the deep-sea fishery around our coast unless they could procure bait and ice in which to pack it. They purchase bait in order to save time.

17. The Americans are mostly all fitted out on leaving home, and only purchase supplies, except ice and bait, when they run short.

18. I know of no benefit to Canadians in the right of fishing in American waters.

19. The Americans make bait scarce for our bankers, and carry away large quantities of fish from our men.

20. I have often heard of Americans smuggling goods around our coast, and exchanging them for fish.

21. If the Americans were excluded from our inshore waters, it would be a great benefit to Canadian fishermen.

THOMAS RITCEY.

Sworn to at Lower LaHave, in the county of Lunenburg, this 7th day of August, A. D. 1877, before me.

JAMES H. WENTZEL, J. P.

No. 254.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, WILLIAM D. SMITH, of Port Hood, in the county of Inverness, merchant, make oath and say as follows:

1. I have been actively engaged in the fish business in the way of a supplying establishment for the past thirteen years. I am owner of the fishing establishment on Port Hood outer island, and furnish supplies to fishing vessels and take fish in payment, and have a pretty good opportunity of judging of the condition of the fishing business on this part of the coast.

2. During the period I have been engaged I have known as many as 200 American vessels in Port Hood Harbor at one time. Mackerel and codfish are the chief fish obtained by the Americans in the gulf, though they take small quantities of haddock, hake, and halibut.

3. The average cargo of American fishing-vessels is three hundred barrels per trip of mackerel and from 600 to 1,000 quintals of codfish, and they make on an average from two to three trips during the season. The American vessels begin to arrive at about the first of May to procure bait for that cod fishing. In July they arrive here for the mackerel fishing, and continue fishing in the gulf and on the coast for several months until November.

4. The catch of mackerel has somewhat decreased during the past two or three years, but there is no reason to believe that this has been due to any falling off in the number of mackerel frequenting our coasts and waters. I believe that our mackerel fisheries will be as productive during the next eight years, if properly cared for, as during any past time.

5. The American mode of fishing in our waters is very destructive to our cod fisheries. Their system of trawling is very injurious; meeting the fish and killing the mother fish early in the season before they have spawned. I believe this mode, if continued by the Americans, will do serious damage to our fishing grounds.

6. I am not sufficiently familiar with practical fishing to understand fully the injury done to our fishing grounds by the practice of the Americans of throwing overboard offal; but I have understood that the fish were glutted by it, and I attribute the falling off in the catch of mackerel during the past two years as due to this practice of throwing bait overboard, which has prevented the mackerel from biting as freely as before. Our own fishermen exercise greater care in disposing of the offal, and usually bring it on shore with them.

7. I cannot speak positively as to the relative quantity of fish caught by the Americans at the time of the Reciprocity Treaty inshore and outside; but I know that the Americans fished there inshore, and I know that the inshore fisheries are much more valuable than those outside.

8. The Americans have injured our boat-fishing by their system of throwing bait overboard to entice mackerel to leave the shores. This at one period was a source of great damage to our boat-fishing.

9. The effect of the use of purse seines by the Americans in any great numbers would be the destruction of the fishing grounds and the glutting of the markets. The fish would be caught in such large quantities that many of them would be lost and thrown into the sea dead, which would be very destructive to the grounds.

10. The Americans, I understand, do catch small quantities of herring and squid for bait inshore, but chiefly purchase their bait from traders. The small fish used for bait is taken almost exclusively inshore and in bays and creeks.

11. Since the Treaty of Washington, to the best of my knowledge there has been a slight decrease in the number of codfish frequenting the gulf, and I attribute the cause of it entirely to the system of trawling adopted by the American fishermen.

12. The herring fishery on our coast is a very large industry, and very

important to our fishermen. Herring are caught altogether inshore. The Americans do not prosecute herring fishery to any great extent now, but should they do so at any time, as under the Treaty of Washington they may, they would very greatly injure the grounds, and their competition would be a great loss and injury to our fishermen, who are now profitably engaged in the business.

13. The mackerel spawn near the shore, and must necessarily feed near the shore, as the small fish upon which they feed only frequent shoal water.

14. It is unquestionably a very great advantage to American fishermen to be allowed to land and dry their nets and cure their fish. And a still greater advantage to be permitted to transship cargoes, because it enables them to land their fish and refit for another voyage at our ports, without returning to the States, and greatly saves time during the season. It also affords a reasonable likelihood of building up a profitable trade for the Americans by preserving the fish in ice and transshipping them fresh to the American markets.

15. It is one of the greatest advantages which the Americans gain under the Treaty of Washington to procure bait in our waters and ports. Most of this is purchased from our traders; but the Americans only adopt this mode of obtaining it, because it is more profitable to them than catching it. Our own fishermen procure it with much greater facility than the Americans can, and it would be a serious drawback for them to have to catch it now, and would involve extra time and extra outfit.

16. It would be nearly, if not quite, impossible for the American fishermen to carry on cod fishing and other deep-sea fisheries around our coast if deprived of the privilege of resorting to our ports for bait. Their bait will only last three weeks on ice, and to be entirely dependent on their own ports for this would be destructive of all profits in the business.

17. Another great advantage to Americans under the treaty is the privilege of resorting to our ports for ice, which they obtain from our traders every season.

18. The cash value of the privileges accorded to American fishermen in respect of our fishing grounds can be measured by the value of our fisheries to them; for if they were deprived of them, their cod fishing would be ruined, and their mackerel fisheries in the gulf at least be greatly crippled.

19. I know of no advantage which Canadian fishermen derive from the privilege of fishing in American waters, and I never heard of any Canadian vessel going to fish in these waters, save that I read an account this spring in an American paper of one vessel that had been fitted out at Lunenburg for that purpose.

20. I do not consider the privilege of sending our fish into American markets free of duty anything like an equivalent for the use of our fishing grounds. In fact, it is only a trifling advantage to us anyway.

WILLIAM D. SMITH.

Sworn to at Port Hood, in the county of Inverness, this 20th day of July, A. D. 1877, before me.

JOHN MCKAY, J. P.

No. 255.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, ARCHIBALD B. SKINNER, of Port Hastings, in the county of Inverness, trader and inspector of fish, make oath and say as follows:

1. I have been engaged in the fishing business for the past thirty two years. I have been a practical fisherman and am familiar with the general character of the fishing business on this coast.

2. During the Reciprocity Treaty a large fleet of American fishing vessels came to this coast during the summer season to carry on a fishing business. The number increased during the treaty, until at the termination a fleet numbering hundreds of vessels were engaged in fishing around the coast of Nova Scotia, Cape Breton, Prince Edward Island, and the Magdalen Islands. These principally took mackerel and codfish, but they took other fish as well. The average cargo of mackerel was at least three hundred barrels per trip, and the cargo of codfish ranged, to the best of my knowledge, from six hundred to a thousand quintals. They made two or three trips per season.

3. After the Reciprocity Treaty the American fleet began to fall off very much, and their business and profits began to decline, and I believe it would have gone down much more, and possibly have been abandoned, if American fishermen had not violated the law.

4. During the past two or three years the mackerel fishery in the Gulf of St. Lawrence has fallen off considerably. The number of American vessels has been decreased and the catch diminished. This has been merely accidental and temporary, and not permanent. The reason for few American vessels coming here I attribute to the falling off in the price of mackerel in American markets; and also to the injury done to our fishing grounds by American fishermen, by their system of seining and their throwing bait and offal overboard, which gluts the fish and tends to destroy the catch.

5. Our herring fisheries are among the most valuable and important we have, and are the source of great profit to our own fishermen. Nearly the whole herring fishery is carried on inshore.

6. The inshore fisheries are considered more valuable than the outside. During the prosperous years of our mackerel fishing I have no doubt but that the larger number were taken inshore. I believe that our mackerel fisheries, if properly protected, will be more productive and valuable this year, and for the next eight years, than for some time past. The number of American vessels arriving here this season and passing through the strait is larger than it has been for some time past, and the mackerel season is only beginning. I know no reason why there should not be as large a mackerel fishery in these waters during the remaining term of the Treaty of Washington as under the Reciprocity Treaty.

7. The privileges granted to American fishermen under the Treaty of Washington, of catching and procuring bait in our waters and ports, is exceedingly valuable to them. In fact, without that privilege, I cannot see how they could carry on their cod fishing in these parts with profit. All their bait is procured here and preserved in ice obtained from our traders, and I do not have much hesitation in saying that if the Americans were entirely dependent on themselves for bait they would have to abandon cod fishing on the British-American coast.

8. The privilege of reshipment of cargoes which the Americans obtain under the Treaty of Washington is exceedingly valuable to them. They

are, to my knowledge, taking advantage of this privilege at the Strait of Canso. They have an advantage in this over Canadian fishermen, because by using American vessels they are able to avoid inspection, and they do avoid it, as in my capacity of inspector of fish I happen to know.

9. A large portion of the American fishing-fleet is now going every year up to the eastern side of Cape Breton and fishing in the vicinity of Seatarie, Cape North, and the section around there. I understand that these grounds are very rich in fish.

10. The value of the privileges acquired by American fishermen under the Treaty of Washington cannot be estimated accurately by the money value to each vessel engaged. It is worth nearly as much as their entire fisheries on this coast, for if deprived of all these privileges they would scarcely be able to carry on their fisheries on this coast with any profit without violating the law.

11. I am not aware of any advantages which Canadian fishermen derive from the privilege of fishing in American waters, nor do I know of any of our fishermen who have availed themselves of this privilege.

12. It would be a great advantage to our shore fishermen to have exclusive use of our fishing grounds. They would preserve them and derive greater profits from them than they possibly can when the Americans are using them in common. I consider the privilege of sending our fish into American markets no kind of an equivalent for the privileges given to Americans under the Treaty of Washington; in fact, it is only a trifling benefit to us at all. If we had exclusive use of our own grounds it would be better for us, even though the American Government imposed the highest duties on our fish.

A. B. SKINNER.

Sworn to at Port Hastings, in the county of Inverness, this 25th day of July, A. D. 1877, before me.

PETER GRANT, *J. P.*

No. 256.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, WILLIAM MUNROE, of Whitehaven, in the county of Guysboro', fisherman, make oath and say as follows:

1. I have been engaged in the fisheries during the last forty years, and have a personal knowledge of the matter hereinafter deposed to.

2. The Americans in large numbers fish in the North Bay for mackerel, and frequent the Canadian coast for bait and other necessities. I have known a hundred and fifty American sail come into Whitehaven Harbor during a single season for bait. The cod-fishing vessels average from ten to twelve men, the mackerel-vessels will average fifteen men. The tonnage will range from sixty to a hundred tons.

3. The present condition of the fishery on the coast of Nova Scotia is not as prosperous as formerly. Cod-fishing particularly has declined. I consider trawl-fishing the principal cause of this decline, as it kills the mother fish.

4. The principal portion of the American mackerel fishermen fish with hook and line. A small portion with seines known as purse-seines. The American cod-fishers fish with trawls or set-lines. Herring are principally taken by them with seines, and a few with nets. Halibut are fished in the same way as cod. They throw away all the small cod,

sometimes in as large quantities as three hundred pounds per vessel per season. This I consider very destructive to the cod-fishing. The cod thus thrown away is similar to those caught inshore by the Canadian fishermen.

5, The practice of throwing offal of every kind carried on by American fishermen on the fishing-ground I consider very injurious. It kills the fish and drives them off the ground.

6. The inshore fisheries are of greater value to Canadian fishermen than the outshore fisheries. I consider the inshore fishery of double the value of the outshore ones.

7. All kinds of fish are caught inshore by Canadian fishermen. Since 1871 the price of fish has gone down. This is due to the privileges granted to the Americans of fishing, landing, &c., inshore, thereby enabling them to produce a greater quantity than they otherwise would.

8. Herring fishing is all inshore, with very few exceptions. Americans fish herring inshore for bait.

9. Some mackerel spawn in Whitehaven Harbor and along the coast but their principal spawning-ground is in the North Bay. They always feed along the coast wherever they go.

10. It is a great privilege to the Americans to be allowed to land on our coast to dry their nets and cure their fish as well as to procure supplies, &c. The privilege of transshipping their cargo is of advantage to them, enabling them to make more trips per season, catch more fish, and thus compete with greater advantage with the Canadian fishermen.

11. I am of opinion that the privilege of being allowed to procure bait inshore is of very great advantage to the Americans. Without this privilege they could not fish with profit. They fish or buy as it pays them best. If they were not allowed the rights granted by the Washington Treaty they could not carry on their fishing operations at all.

12. To the best of my knowledge the privileges granted to Canadians by the Washington Treaty of fishing in American waters is worthless, as they have enough fisheries of their own. I never heard or knew of a Canadian vessel fishing in American waters.

13. It is an injury to Canadian fishermen that the Americans are allowed to land and fish inshore. Canadian fishermen have now to sink their nets for safety from vessels frequenting the inshore, and even with this precaution the nets are destroyed.

his
WILLIAM + MONROE.
mark.

Sworn to at Whitehaven, in the county of Guysboro', this 24th day of July, A. D. 1877, before me, first having been read and explained.

JAMES A. TORY,

J. P. for the County of Guysborough.

No. 257.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, MATTHEW MUNROE, of Whitehaven, in the county of Guysboro, fisherman, make oath and say as follows:

1. I am acquainted with the fisheries during the last twelve years, and during that time I have been three years fishing with the Americans, both at cod and mackerel fishing.

2. I have seen as many as three hundred American sail fishing for mackerel during a single season at North Bay. Each vessel would, if allowed to discharge at the Strait of Canso, make from three to four trips per season. If not allowed to land they would not make more than from one to two. The vessel I was in one trip took only three hundred barrels. This was a very small catch. We fished round Bay Chaleur, on the north side of Prince Edward Island, on the west side of Cape Breton. The average crew of each American vessel would be fifteen men. The average tonnage would be from fifty tons to one hundred tons. I last fished five years ago with the Americans.

3. During the time I was fishing with the Americans we came into Canadian ports for bait and ice on an average four times each season. We bought ice and bait because we got it cheaper, and because it was of very great advantage to the American fishermen. If we could not land and procure the bait and ice in Canadian ports we could not have fished, and would have been compelled to have given up the voyage and returned to the United States.

4. I have known the American vessels raise schools of mackerel close inshore, and entice them out by bait. After they went out into deep water the fish were lost and the vessels had to work inshore to find others. I have known the American vessels to fish so near shore that there was not room to lie to for to fish, and were compelled to come to an anchor and spring up to their cables. I have known this take place on many occasions. The practice of enticing the mackerel by bait from the inshore is very bad for the people living on the Nova Scotia shores. I also think the practice of baiting the mackerel in the bay keeps them from coming along the shore later than they otherwise would, and thus hinders our fishermen from catching them.

5. Almost all the mackerel is caught inshore. The Americans do all they can to fish inshore, and will run every risk to do so. Unless they were permitted to fish inshore they could not fish mackerel with any profit.

6. The privilege of fishing in American waters by Canadians is worth nothing. I believe the privileges granted to the Americans by the Treaty of Washington worth half the value of the fish they catch.

7. The right of the Americans to fish inshore is of loss to Canadian fishermen, as they catch the fish which the Canadians might otherwise catch, and compel them to sink their nets for the purpose of protecting them from injury by the American vessels. The nets thus sunk do not catch as many fish as they otherwise would.

MATTHEW MUNROE.

Sworn to at Whitehead, in the county of Guysborough, this 24th day of July, A. D. 1877, before me.

JAMES A. TORY.

J. P. for the County of Guysborough.

No. 258.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, ISAAC W. RENNELS, of Port Hood, in the county of Inverness, master mariner, make oath and say as follows:

1. I have been engaged in the fishing business for the past twenty-six years. For nine seasons I was engaged on board American fishing-vessels, and fished in both American and Canadian waters. I have

sailed in American fishing-fleets on the coasts of Nova Scotia, Cape Breton, Prince Edward Island, Magdalen Island, Gaspé, Anticosti, and the Bay Chaleur, and have had excellent opportunities during that period of understanding the whole fishing business. I am at present engaged in Canadian fishing on this coast.

2. While in the American fleet I carried on fishing on the coasts of the United States as well as British America, and found that the latter were much richer and better than the former. The Americans reckoned that they could catch twice as many fish in Canadian waters and make double the profits. When we fished in Canadian waters we chiefly took cod and mackerel, though sometimes other kinds of fish. We took from 300 to 500 barrels of mackerel at a cargo, and from 600 to 900 quintals of codfish, and made about three trips a year.

3. The inshore fisheries are much more valuable than those outside. We always took the great bulk of our mackerel inside of three miles of the shore. In the autumn the fisheries are chiefly carried on inshore.

4. After the Reciprocity Treaty I was engaged in carrying on Canadian shore-fishing, and we had the best fishing ever known when the American vessels were not allowed to come inshore, and were kept off by the cutters. The grounds were better preserved, the mackerel would bite freer, and we made better catches and more money. When the American vessels are allowed to come inshore they come up to our boats where we are catching, and throw bait overboard and entice the fish away, so that our chances are ruined.

5. I believe the American fishermen have done and are doing great harm to our fishing grounds. Within two years I have seen Americans using the purse-seine within half a mile of the shore, and this cannot but injure the grounds. The number of fish is not diminished, but the catch is lessened.

6. The reasons that the Americans do not catch mackerel on these shores in as large quantities as formerly are twofold. First, they have injured the grounds by their mode of fishing, so that the catch is diminished. This, I believe, will only be temporary. Second, the price of mackerel has so declined in American markets that they find it more profitable to devote themselves to cod-fishing. If the price of mackerel should go up, I have every reason to believe there would be as many Americans fishing there for mackerel as there were under the Reciprocity Treaty.

7. All the American fleet does not go through the Strait of Canso now. During late years I have known of American vessels going up the east side of the island, around Scaterie and Cape North, instead of coming through the strait. This is especially in the cod-fishing business, and I have understood there were some good fishing grounds in that part of the coast.

ISAAC W. RENNELS.

Sworn to before me this 9th day of August, A. D. 1877, at Port Hood, in the county of Inverness.

JOHN MCKAY, J. P.

No. 259.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, JOHN MCADAMS, of Port Jollie, in the county of Queen's, fisherman and dealer in fishermen's supplies, make oath and say as follows:

1. I have been engaged in the fisheries for forty years. I have fished along the southern coast of Nova Scotia, on the eastern side of New Brunswick, around Prince Edward Island, on the Labrador coast, and on the banks off the Canadian coast. I have taken all the kinds of fish found on the above-mentioned coasts.

2. About ten years ago I have seen over four hundred American vessels in Port Hood Harbor at one time. I have often see two hundred in one fleet fishing together at one time. These vessels were all engaged in taking mackerel, and took the most of their mackerel within three miles of the shore; and in my opinion it would not pay to send a vessel into the North Bay to fish mackerel unless she could catch mackerel within three miles of the shore.

3. During the past twenty or thirty years there have been supplied to Canadian vessels in this harbor large quantities of clams for bait; from forty to fifty vessels every year down to the present time. These vessels use the clams in taking codfish and mackerel. In cod fishing they use the clams for hand-lining, and could not use them in trawling. The clams are used for mackerel in the North Bay.

4. Our Nova Scotia fishermen say that the clams that they get here are superior to American clams.

his
JOHN + McADAMS.
mark.

Sworn to at Port Jollie, in the county of Queen's, this 18th day of August, A. D. 1877, before me.

S. T. N. SELLON, J. P.

No. 260.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, DONALD CAMPBELL, of Port Mouton, in the county of Queen's, trader, make oath and say as follows:

1. I am well acquainted with the inshore fisheries in Queen's County, and have dealt largely in inshore fish in this county for twenty-four years.

2. During the past twelve years many American vessels are in the habit of running here for bait, and they have got ice here in which to pack their bait. During the last six years between twenty and thirty American vessels, at the least, have got bait here yearly. The Americans say it is a great benefit to them to be able to procure this bait, for without it they could catch no fish. Six years ago an American vessel, commanded by Capt. Randall McDonald, ran here for three trips of three weeks, to a day, taking fresh halibut on each trip, going to Gloucester and returning here within the said time.

3. The cod-fishing vessels have to return to get a new supply of bait, and they do this every fortnight or three weeks. The Americans take their codfish off on the banks within fifteen or twenty miles from the shore, by trawling principally.

DONALD CAMPBELL.

Sworn to at Port Mouton, in the county of Queen's, this 17th day of August, A. D. 1877, before me.

S. T. N. SELLON, J. P.

No. 261.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, JOHN DANIEL RICHARD, of La Have Island, at present of Getson's Cove, in the county of Lunenburg, fisherman, make oath and say as follows:

1. I have been fishing for about forty five years. I have fished around Cape Breton, on the eastern side of New Brunswick, around Prince Edward's Island, around the Magdalenes, on the Canadian coast of the Labrador, and on the southern coast of Nova Scotia. I have taken all the kinds of fish found on the above-mentioned coasts.

2. Six years ago on the Magdalene coast I saw four American vessels, each equipped with four trawls, and on each set of trawls were a thousand hooks. I asked the American skipper how many fish he had on his trawls. He said nine hundred, and of these nine hundred he only took seventy on board. The fish thrown overboard interfered with our fishing. These fish, to the best of my knowledge, were taken within three miles of the shore.

JOHN DANIEL RICHARD.

Sworn to at Getson's Cove, in the county of Lunenburg, this 9th day of August, A. D. 1877, before me.

BENJAMIN RYNARD, *J. P.*

No. 262.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, COLIN MCLEOD, of Brooklyn, in the county of Queen's, merchant, make oath and say as follows:

1. I have during the present year supplied American fishing vessels with ice, about twenty tons. I have supplied about twenty tons to Canadian vessels. The Americans say that if they could get plenty of bait and ice in this harbor it would be of great benefit to them. They say that if they can get plenty of bait they would be more likely to get larger fares.

COLIN MCLEOD.

Sworn to at Brooklyn, in the county of Queen's, this 16th day of August, A. D. 1877, before me.

S. T. N. SELLOX, *J. P.*

No. 263.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, JAMES BUSHEN, of Port Mouton, in the county of Queen's, fisherman, make oath and say as follows:

1. I have fished for eighteen years, every season down to the present included, principally inshore, in Queen's County, and on the banks off this coast. I have also fished in an American schooner for two years on the Western Bank.

2. During the past six years from twenty to thirty American vessels run into this harbor for bait, and without this bait they could not carry on the cod-fishery, and they only get this bait around the Canadian coast. If they cannot get it in one place they run to another. They buy this bait because it pays them better than to catch it, as it would take too much time to do so, and it would be too much expense. These American vessels take from about eighteen to twenty-five barrels of bait each.

3. The codfish vessels run here about every three weeks, and do so for about three times before they make a full fare. They make a trip in from six to nine weeks. These vessels take from seven to fifteen hundred quintals each when they make a full fare. They catch their fish from fifteen to twenty miles off this coast, and principally by trawling, which I consider a very injurious method of taking fish.

4. I have been fishing on the banks off the coast of Nova Scotia for eighteen years, and I have never seen so many American vessels fishing on these said banks as I have seen during the present summer.

JAMES BUSHEN.

Sworn to at Port Mouton, in the county of Queen's, this 17th day of August, A. D. 1877, before me.

S. T. N. SELLON, *J. P.*

No. 264.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, JOHN P. GARDINER, of Cape Sable Island, in the county of Shelburne, fisherman, make oath and say as follows :

1. I have been engaged in fishing for thirty-eight years ; mostly in the inshore fisheries on the cape off here. We catch large quantities of codfish within three miles of the shore, and all the mackerel taken around here are within three miles of the shore and in large quantities. Last summer and this present summer I have seen American vessels trawling within three miles of the shore around here. The Americans get bait in this harbor, which is a great advantage to them, as it enables them to carry on the trawling on the Banks off shore. This trawling in my opinion is spoiling the grounds.

JOHN P. GARDINER.

Sworn to at Cape Sable Island, in the county of Shelburne, this 27th day of August, A. D. 1877, before me.

D. G. DALEY, *J. P.*

No. 265.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, ALEXANDER GILLIES, of Port Hood, in the county of Inverness, justice of the peace, make oath and say as follows :

1. I have lived in this place and been familiar with the fishing business here for fifty years. I have fished some myself and have had good opportunities of observing and knowing the general character and condition of the fisheries in these parts during the past half century.

2. I recollect well that previous to the Reciprocity Treaty in 1854 the few American vessels that used to come and fish in these waters on the coast of Cape Breton, complained all the time of the disadvantage of not being able to fish inshore, and the men used to say that they could not carry on a profitable business without it. As soon as the Reciprocity Treaty came into operation the number of vessels from American ports increased at once, until there was soon a large fleet. I am safe in saying that I have seen over four hundred American fishing-vessels in Port Hood Harbor at one time during the Reciprocity Treaty.

3. After the Reciprocity Treaty terminated, there was at once a great falling in the American fishing fleet on these coasts, and their business was not nearly as lucrative and profitable, and I believe if they had not violated the law they would scarcely have been able to carry on fishing with profit at all.

4. The American fishermen catch all kinds of fish in our waters. The larger part they take is mackerel and codfish; but they also take herring, halibut, hake, and haddock. Their average cargo is about four hundred barrels of mackerel, and when they take codfish they do not average less than six hundred to a thousand quintals each vessel. They will average three trips per season.

5. There has been something of a falling off in the mackerel catch in these parts during the past year or two; but I would not say that there had been any diminution in the number of mackerel in our waters. I regard the falling off as merely temporary, and I believe it will be as good mackerel-fishing here if the grounds are not injured by the American fishermen during the coming eight years as heretofore. I believe the falling off in the catch of late has been largely due to the mode in which Americans carry on the fishing.

6. The inshore fisheries are much more valuable than the outside, and more fish are caught within three miles of the shore than outside. More than half of all the fish which the Americans take from our waters are taken inshore.

7. American fishermen are doing great damage to our boat-fishing by coming up near our boats and throwing bait overboard to entice the fish away, and they leave at once, and thus seriously interfere with the profit of our own shore-fishermen.

8. Our herring-fisheries are the most important and valuable we have, and probably our fishermen derive more profit therefrom than from any other. All herring are caught inshore and nearly all taken within one-half mile of the shore. If the American fishermen should go into the herring-fishing along our shores they would be almost certain to ruin the grounds and would do great damage to our own fishermen.

9. It is undoubtedly a great advantage to American fishermen to be allowed to land and dry their nets and cure their fish. It is also greatly to their advantage to be able to transship cargoes, and it enables them to make more trips and take more fish each season.

10. It is also the greatest advantage to American fishermen to be allowed to catch bait and procure it by purchase on our shores. All bait is taken inshore, and upon the privilege of getting bait at our ports and in our waters the very existence of the American cod fishing depends, for it would be utterly impossible for the Americans to carry on the cod fishery in these waters if they were compelled to get all their bait from American ports and waters. Bait for cod fishing will only last three weeks on ice, and the ice used to preserve it is procured by the Americans from our own traders.

11. From a pretty careful estimate of the matter from its various

points, according to the best of my knowledge and experience, I would say that the privilege derived by the American fishermen from the use of our fishing-grounds and the privilege of getting bait, outfit, and supplies at our ports was worth at least half as much as the entire American fishing business on the coast of British North America every year. If all the privileges given by the Washington Treaty to American fishermen were taken away, they could only make fishing profitable here by violating the law.

12. I know of no advantage which Canadian fishermen derive from the use of American waters. Our own fishing grounds are well known to be more productive than the American. I have never heard of any Canadian vessel going to American waters for the purpose of taking fish.

13. The presence of American fishing-fleets on our shores is undoubtedly very injurious to our own fishermen, who would be able to take larger quantities of fish and carry on a better business if they enjoyed exclusive rights. They would also take better care of the grounds and preserve them better.

ALEXANDER GILLIES.

Sworn to at Port Hood, in the county of Inverness, this 21st day of July, A. D. 1877, before me.

ALEXR. McDONALD, J. P.

No. 266.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, HENRY HEMLOW, senior, of Liscomb, in the county of Guysboro, fisherman, make oath and say as follows:

I have been engaged in the fisheries during the last sixty years.

1. The principal fishing at Liscomb is cod and herring fishing. At times I have seen as many as forty or fifty American vessels going in and out at once. Each American vessel would catch, on an average, between six and seven hundred quintals per trip. They would make two trips each season, and afterwards fish on their own coast or on the coast of Newfoundland.

2. The cod fishing has improved lately; so has the herring fishing, but they are not so good as formerly. The Americans do not fish for bait in Liscomb Harbor, and this, in my opinion, accounts for the better state of the Liscomb fishery. When the American fishermen used to come in, they threw the fish guts, heads, &c., overboard and destroyed the eggs or young fish. This practice also drove out the fish from the harbor.

3. I consider the value of the outshore fishery much less than the inshore. Cod and halibut are principally caught outside, while all other fish are principally caught inshore. Formerly the Americans caught mackerel with hook and line; now they are caught by them with seines and purse-nets. Fishing with seines and purse-nets is injurious to the fisheries.

4. Haddock, codfish, and other fish caught inshore are fished by the Americans in the inshore waters. Canadian fishermen use the inshore fishery to a large extent, and it is of the greatest value to them. Very few herring are caught outside.

5. The food of the mackerel is found inshore. The privilege of land-

ing, drying their fish, &c., I consider of great importance, as is also the opportunity of transshipping. This enables them to make more trips in the season, and also enables them to watch the best chances to fish. Without the privileges granted by the Washington Treaty, I am of opinion that the American fishermen could not fish with any profit to themselves.

6. I never heard of any Canadian fishermen frequenting American waters, but the American fishermen interfere with the Canadian fishermen by disturbing their seines and in other ways injuring the fisheries. It would be much better for the Canadians to have the sole right of the inshore fisheries, and no right to sell fish free in the United States than the rights they enjoy under the Washington Treaty.

7. Since 1871 an American lobster factory has been opened in Liscomb, and the lobster fishery has largely decreased. The canned lobsters are principally sold in England.

his
HENRY + HEMLOW, Sr.
mark.

Sworn to at Liscomb, in the county of Guysboro', this 19th day of July, A. D. 1877, before me, first having been read and explained.

JAMES A. TORY,
J. P. for the County of Guysboro'.

No. 267.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

1, WILLIAM WATTS, of Port Hood, in the county of Inverness, fisherman, make oath and say as follows:

1. I have been for eight years past engaged in fishing, and during two seasons I made trips in American fishing-vessels, and made trips and caught fish in the gulf and on various parts of the coast of Nova Scotia, Cape Breton, and the Magdalen Islands, and have had pretty good opportunities of judging of the fishing business done on this coast.

2. I have seen since the Treaty of Washington as many as four or five hundred American fishing-vessels in the harbor of Port Hood, and I should say that the whole number engaged in fishing in the gulf and around the shore has been as high as six or seven hundred in a season. These vessels were engaged principally in catching codfish and herring, although they take small quantities of herring, hake, haddock, and halibut. The vessels rate from 50 to 80 tons and are manned by from twelve to twenty of a crew. They usually average about three trips during the season, and in the codfish season take from five to seven hundred quintals at a trip, worth from \$4 to \$5 per quintal. Their average cargo of mackerel would be about three hundred barrels, worth formerly about \$15 per barrel.

3. I do not know as there has been any great increase or decrease in the cod-fishing in these parts of late. It is about as good this season as usual. There has been something of a falling off in the catch of mackerel within the past year or two; but I don't think there has been any falling off in the numbers of the mackerel. They would not bite so well; that is all. I cannot tell why this should be, unless it is on account of the American fishermen using seines and throwing bait overboard and offal, which makes the mackerel less free to bite.

4. Within the last two or three years I have seen American fishermen using the purse seines in the mackerel fisheries, and I consider that this practice is very injurious to our fishing-grounds. Sometimes as many as a thousand barrels of mackerel are taken in one haul, which cannot be cured or saved, and part of them have to be let out and many are killed. This must be destructive to the fishery. I have never known Canadian fishermen to take this course, and most of them catch mackerel in boats.

5. American fishermen to my knowledge have caught mackerel since the Treaty of Washington within one mile of the shore and even less. Within two or three years I have seen them catching in this harbor. It is always considered that the best fishing is within three miles of the shore. When I was on board of American fishing-vessels we took nearly all the cargo inshore.

6. I have seen Americans catching bait within three miles of the shore—in fact, all bait is caught inshore, being smaller fish, which only live in shoal water. Now the Americans buy most of their bait, because it is more convenient and profitable for them to do so, and our fishermen catch it with greater facility than they do. Not less than fifty or sixty American vessels have baited here this present season already, chiefly herring and squid.

7. The American practice of throwing bait to entice mackerel away is very injurious to our boat-fishing. Their vessels often come along where we are fishing, and throw bait overboard, and the fish leave us and go in the direction of their bait, which is very damaging to our catch.

8. Our herring fishery is one of the most important and valuable we have. Large quantities of this fish are taken by our shore fishermen now. I have known as many as one hundred and fifty barrels of herring to be taken by one boat in two days. If the Americans should enter into this branch of fishing under the Washington Treaty, and they do somewhat now, and use their seines, it would injure our business very seriously and damage the grounds very much.

9. To the best of my observation and experience as a fisherman, I say that the main body of the mackerel feed around the shore in shoal water. Their food being small fish, they must necessarily be obtained near the shore, and in the fall season especially the mackerel cluster near the shore, and it is there chiefly that they are caught.

10. I consider it a great advantage for American fishermen to be allowed to land in our ports and dry their nets and cure their fish, and still more to be allowed to transship their cargoes. There can be no doubt about this. They do it continually, and say themselves that it is a great advantage, as it enables them to fit out for new voyages and ship men without going back to American ports. They can catch more fish in a season by means of this privilege and take more trips.

11. I regard the privilege of being able to catch and buy bait in Canadian waters as one of the greatest advantages the American fishermen get from the treaty. If they had not this privilege they would have to abandon cod-fishing in our waters and on our coast altogether. They begin the cod-fishing about the first of May, and get bait continually all the season. When preserved in ice, which they get from our traders, the bait is allowed to last about three weeks. If they could not get it from us, and ice to keep it, the only way they could preserve it would be to salt it, and this injures the quality of the bait. If the Americans had to go back to their own waters and ports to get bait every three

weeks they could do nothing with their cod-fishing, and it would be impossible to carry it on profitably.

12. I could not tell in figures just what the money-value is to each American fishing-vessel to be allowed to fish in our waters and get bait and supplies, but I do not think it is too much to say that it is worth nearly as much as their entire fisheries at present on these grounds, for without these privileges they would find it very difficult, without violating the law, to carry on fishing of any kind profitably in the gulf or around the British-American coast. They could not possibly take as many trips, nor could they carry on their business with any facility.

13. I know of no advantage of any kind which our Canadian fishermen gain from being able to fish in American waters. I have heard American fishermen admit that our grounds were the richest and best. I have never heard of any Canadian or British vessel going to American waters for the purpose of fishing, nor can I imagine any reason to induce them to do so.

14. If our fishermen had the exclusive right to fish in our own waters on the British-American coast, and no American fishermen were allowed to compete, I am certain we would be able to catch more fish every year and make more profits out of the business. Our fishing grounds would also be better preserved, because our fishermen carry on their fishing with much greater care and do not destroy the grounds as the American fishermen do, by throwing offal overboard and using purse seines.

WILLIAM WATTS.

Sworn to at Port Hood, in the county of Inverness, this 21st day of July, A. D. 1877, before me.

JOHN MCKAY, J. P.

No. 268.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, JOSHUA SMITH, of Port Hood Island, in the county of Inverness, Cape Breton, fisherman and trader, make oath and say as follows:

1. I am a member of the firm of J. & H. Smith, which has been actively engaged in the occupation of fishing and supplying fishermen for the past fifteen or twenty years, and I have had ample opportunities of becoming familiar with the general business done on the coast of Cape Breton. Our firm has dealt in mackerel, codfish, haddock, hake, and herring to the value of over \$3,000 annually.

2. I have known as many as five hundred sail of United States fishing-vessels engaged in the fisheries around the Island of Cape Breton. This was during the Reciprocity Treaty from 1854 to 1864. After that treaty terminated the number of American vessels very much decreased. These have fished around the coast of Cape Breton, Antigonish Bay, Prince Edward Island, Magdalen Islands, and the coasts of Nova Scotia proper. They take mackerel chiefly. Also codfish in large quantities and herring and halibut in smaller quantities.

3. The average tonnage of United States fishing-vessels is 70 tons, and each of them has a crew of about fifteen men. During the Reciprocity Treaty each vessel averaged about three hundred barrels of mackerel per trip and made from two to three trips per season from this coast. This average was much reduced after the Reciprocity Treaty.

4. During the past two or three years the catch of mackerel has been somewhat less than formerly on the coast of Cape Breton. But I regard this diminution as merely accidental and temporary. These grounds are exceedingly rich in fish, and I have no hesitation in giving it as my opinion that the mackerel fisheries on this coast will be as productive and valuable during the next eight years as during the eight years just past. The mackerel season for the present year has only just commenced, but the prospects are favorable.

5. From what I have observed and from information received from American fishermen, I should judge that at least one-half of the cargoes taken from this coast were caught inside of three miles of the shore. And always late in the season as the autumn approaches much the larger part of the fish are taken within three miles of the shore. The privilege of the shore-fishing is valuable on account of prolonging the fishing season.

6. The privilege accorded to American fishermen of taking fish within three miles of the coast is of very great value to them. I have no hesitation in saying that if they were restricted to the Treaty of 1818, they would be compelled to abandon the fisheries or nearly so.

7. The American fishermen do catch bait within three miles of the coast to some extent, but they purchase a great deal of it now from traders. The privilege of catching and procuring bait from our ports I consider a very great advantage to the United States fishing-fleet, and enables them not only to carry on their operations with greater facility, but to make more trips per season than if they were compelled to procure their bait exclusively from American waters and ports.

8. I consider it decidedly an advantage to American fishermen to land and dry their nets and cure their fish on our coasts.

9. A large number of American fishing vessels get supplies every season from our establishment, and from other establishments on the coast. They call here annually for outfits, men, and boats to land cargo, and to refit for other voyages. I certainly consider it an advantage to American fishermen to exercise this privilege. The United States fishermen also procure ice in our ports for preserving fish, and I have sold ice to Americans for that purpose during the present season.

10. I am not aware of any advantage that Canadians will derive from the right to fish in the American waters, nor of any they have derived under the Treaty of Washington, unless it is procuring pogies for bait.

11. I consider it would be a valuable advantage for the British fishermen to carry on the inshore fisheries exclusively, and without competing with American fishermen, and this advantage I would estimate at one hundred per cent., or equivalent to the entire value of our fisheries.

12. I would not like to state positively the cash value to each American vessel of the privilege of catching fish within our coasts and bays, and of procuring bait and outfitting, but I am safe in saying it enables them to double their voyages at the very least. And without such privileges I don't know as American fishermen would be able to prosecute their business on this coast.

13. The privilege of transshipment enjoyed by American fishermen under the Treaty of Washington is important and valuable, and may become within the next few years a source of great profit.

JOSHUA SMITH.

Sworn to at Port Hood, in the county of Inverness, this 19th day of July, A. D. 1877, before me.

DUNCAN CAMPBELL, J. P.

No. 269.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, LIVINGSTON COGGINS, of Westport, in the county of Digby, fisherman, make oath and say as follows:

1. I fish out of this port in a schooner of forty-three tons, manned by eight hands, and we fish off to twenty miles off shore, and in the spring close inshore. Large numbers of Americans fish on the same grounds; often seeing four and five in sight at one time, mostly trawling. In this county the Americans trawl halibut off from six or seven miles to close inshore. This trawling is very injurious to the fishery, as the mother fish are taken, which is not the case in hand-lining. On Bear Cove ground the Americans trawl inshore for all kinds of fish. The Americans which trawl on our grounds throw overboard their gurry, which is very injurious to the grounds. From this port, including Freeport, there are fishing out every year twenty vessels, from fifteen to forty tons each. The most of these vessels hand-line, and use kids on board for the gurry. These American vessels which trawl on our grounds get their bait inshore at Grand Manan and in this county.

LIVINGSTON COGGINS.

Sworn to at Westport, in the county of Digby, this 31st day of August, A. D. 1877, before me.

H. E. PAYSON,
J. P., County Digby.

No. 270.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, MARTIN WENTZEL, Lower LaHave, county of Lunenburg, fisherman, make oath and say as follows:

1. I have been upwards of twenty-five years engaged in the fishery, and have fished along the southern coast of Nova Scotia, around the eastern side of Cape Breton, around Prince Edward Island, the eastern side of New Brunswick, and around the Magdalen Islands, and am well acquainted with the inshore fishery in Lunenburg County. I fished mostly as master, and am part owner of a vessel at present engaged in the fishery.

2. From three to four years ago I fished in the Bay of Chaleur, and have there fished mackerel and bait. About nine years ago I have heard persons in the bay say that there were upwards of two hundred vessels there at one time fishing mackerel. The American vessels carried from fourteen to eighteen men, and some as high as twenty. The Americans fished the mackerel mostly all inshore, within three miles of the shore. If I had not been allowed to fish inshore in the Bay of Chaleur for mackerel, it would not pay me to go there, and I took more than three-fourths of my cargo inshore.

3. I have seen the Americans take codfish inshore in the Bay of Chaleur. The Americans fished inshore in boats for codfish, and wherever there was fish. The Americans made the fish scarce for us inshore, and they took large quantities.

4. In fishing mackerel the Americans often lee-bowed us, and threw

over bait to take the fish away from inshore. I have often seen the Americans running into Nova Scotian vessels, and being so many, we were often afraid of them.

5. The Americans fit out their vessels to take from three to eight hundred barrels per vessel, and take on an average of from three hundred to four hundred barrels to each vessel on each trip, and make about three trips. Some years the Americans do better than this and some not so well. Our vessels are not so large as the Americans, and I have taken three hundred barrels of mackerel in one trip. About four years ago I took codfish in the Bay of Chaleur, and took in my vessel eight hundred and twenty-five quintals, mostly all inshore.

6. The Americans carry on the fishing by trawling, and I think this kind of fishing should not be allowed.

7. The Americans fished inshore when the fishery was protected by the cutters, and used to run off shore when the cutters were around, and used to come in when they disappeared. It would not pay the Americans to fish unless they could catch fish inshore.

8. The Americans get bait here year after year, and this spring have got bait at Mosher's Island, in this harbor, and have, during the past five or six years, got ice in this harbor in which to pack their bait.

MARTIN WENTZEL.

Sworn to at Lower LaHave, in the county of Lunenburg, this 7th day of August, A. D. 1877, before me.

JAMES H. WENTZEL, J. P.

No. 271.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, WILLIAM B. CHRISTIAN, of Prospect, in the county of Halifax, and Province of Nova Scotia, at present of the city of Halifax, make oath and say as follows:

I keep a general store and do a general mercantile business at Prospect, supplying our fishermen and others with goods and supplies.

I also supply ice and bait to American cod and halibut fishermen, and advertise in the Gloucester Advertiser to that effect.

Several others at Prospect tried this last business, but could not do it with success.

Another person at Prospect doing that business to the extent that I do it would render the thing of little or no profit or advantage.

I purchase goods in Boston every year, personally visiting that city; but the trade of the American fishermen with me, except for bait and ice, is very trifling. When in Boston, I usually each year go on to Gloucester to settle up with those who buy ice and bait, and arrange for further business in those things, and I am thus in frequent communication with American capitalists, whose vessels fish in our water.

I am aware that it would be useless for the Americans to attempt to carry on the cod or halibut fishery in our waters without the liberty now enjoyed since the Washington Treaty, of procuring ice and fresh bait on our shores.

This year an American halibut-fishing vessel came into Prospect, the William Thompson, a new vessel, belonging to the well-known firm of Cunningham & Thompson, of Gloucester, and had sixty-five thousand pounds of halibut on board, which required immediately four or five

tons of ice to save it from being destroyed. This ice could not have been supplied anywhere nearer than Cape Sable or Liverpool, and there would have been great risk of losing the fish in attempting to reach that place. I was the only one who could supply this at Prospect, and shipped it at the usual rate of \$2.50 per ton, and this whole fare of halibut was thus saved and \$3,700 at Gloucester. Two fares of halibut were saved in the same way by my supplying ice at Prospect last year.

I never carried on the mackerel fishery in the waters of the Gulf of St. Lawrence, but I am aware, from the United States fishermen themselves, that they catch their mackerel within the three mile limit, as they term it, on our coasts. I never heard anything to the contrary from any mackerel-fishermen.

About 100 American cod-fishermen on an average are supplied at Prospect with bait and ice, and very often they run in from the cod-fishing ground on our coast in eight or nine hours for a fresh supply, and usually run in three or four times, on an average, from the Western Bank, and about twice, on an average, from the Grand Bank of Newfoundland. Many of the American cod-fishermen fishing on the latter Bank are supplied with fresh bait and ice at Canso, which is more convenient than the Newfoundland coast in May and June for that purpose.

W. B. CHRISTIAN.

Sworn to at Halifax, in the county of Halifax, this 31st day of August, A. D. 1877, before me.

JOHN DOULL, J. P.

No. 272.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, ALEXANDER McDONALD, of Port Hood Island, in the county of Inverness, fisherman and trader, make oath and say as follows:

1. I have been engaged in fishing and in a fish trading establishment for the past fifteen years, and have had large opportunities for personal observations and experience in the business.

2. Under the Reciprocity Treaty I have known as high as five hundred or five hundred and fifty American vessels engaged in fishing on this coast during one season. After the Reciprocity Treaty the number became much less. These have carried on fishing on the coast of Nova Scotia and Cape Breton, Prince Edward Island, and the Magdalen Island and Gaspé. Each vessel averages about 60 or 70 tons, and has a crew of about fifteen men. They fish for mackerel and codfish chiefly, but catch some hake, halibut, and herring.

3. The American vessels usually carry about three hundred barrels of mackerel per trip each vessel, and from 600 to 1,000 quintals of codfish. They make on an average three trips per season. During the Reciprocity Treaty the price of mackerel was about \$15, American currency, per barrel.

4. The cod fishery on this coast is about the same as usual. There has been something of a falling off in the mackerel fishery in this part during the past year or two, but I do not regard this as permanent. I believe that mackerel always exist in great quantities along our coast, and I know no reason why there should not be as productive a catch during the next eight years as in the eight years past. The prospects for

the present season, so far as I can learn, are good, and more American vessels are coming to these parts this season than for two or three years past.

5. The American fishing-vessels begin to arrive here in May each year for bait to carry on the cod fisheries. In July they come for mackerel, and continue fishing along the coast until as late as November. The American fishermen are in the habit of throwing offal, &c., overboard, the effect of which is liable to glut the fish and injure the young. About here, so far as I have the means of knowing, Canadian fishermen are more careful in their mode of carrying on fishing than the Americans.

6. About two thirds of the entire American catch during the Reciprocity Treaty was taken within three miles of the shore; and I think since the Washington Treaty the proportion is about the same.

7. The inshore fisheries are much more valuable than those outside, and the privilege of using them is very important, because when it comes late in the autumn nearly all the fish are taken inshore, and if the American vessels could not fish inshore it would shorten their season.

8. After the Reciprocity Treaty, the practice of the American fishermen of throwing bait overboard to entice the mackerel outside was considered an injury to our boat fishermen.

9. The American fishermen do catch bait within three miles from the shores here to some small extent, both herring and squid; but the larger portion of the bait used by them now is bought from our people.

10. It is a great advantage to American fishermen frequenting Canadian waters to be allowed to land and dry their nets and cure their fish, and it is so recognized by them.

11. It is also a great advantage to Americans to be allowed to transship their cargoes. It enables them to take more fish and make more trips each season.

12. The privilege of procuring bait both by catching it and purchasing it in Canadian waters and ports is a great advantage to American fishermen; and though they are getting in the habit of buying it rather than catching it, yet this is done simply because they find it more profitable to do so, and not because there is any difficulty or obstacle in catching it.

13. I do not see how the Americans could carry on the cod and other deep-sea fisheries around our coasts without the privilege of resorting to our waters and ports to procure bait. It would compel them to make at least one less trip every season, and it would be less convenient for them in every way.

14. It is likewise a valuable privilege for Americans to be able to resort to our ports to procure ice and other supplies and outfits. Large numbers of American vessels are coming to Port Hood every season for this purpose, and I consider it a great advantage to them.

15. The value of the rights which the Americans acquired by the Treaty of Washington to fish in our waters and to get bait and supplies is very great. I would not fix a money value, but it enables them to fish with much greater facility, to take more trips each season than they could possibly do otherwise. Without these privileges just referred to they would have to abandon our fishing grounds altogether, or nearly so.

16. The privilege granted to Canadian fishermen to fish in American waters is no advantage that I know of whatever to Canadians. I never heard of a Canadian vessel using these waters, and know of no reason whatever why they should.

ALEXANDER McDONALD.

Sworn to at Port Hood, in the county of Inverness, this 21st day of July, A. D. 1877, before me.

ALEXANDER GILLIES, J. P.

No. 273.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, ANGUS GILLIES, of Port Hood, in the county of Inverness, justice of the peace, make oath and say as follows:

1. For the past eighteen years I have been a part of the time engaged fishing about the coasts of British America, and during all that period I have been familiar with the fishing business done here. I have been engaged on board of American fishing-vessels during that time, and have been myself master of a vessel, and have otherwise had pretty large opportunities of becoming familiar with the general business.

2. I have known as many as five or six hundred American fishing-vessels engaged in fishing on these coasts during one season under the Reciprocity Treaty. Each vessel would average about sixty or seventy tons, and was manned by from twelve to fifteen men. The average cargo of mackerel would be three hundred barrels, and the average cargo of codfish would not be less than from five to seven hundred quintals.

3. After the Reciprocity Treaty the American fishing fleet on this coast declined very much, and their business materially lessened. They were not able to take as many trips during the season. Their mackerel-fishing, which was chiefly inshore, fell off very much.

4. Now, the American cod-fishing in the gulf is about as large as ever. They get bait to carry it on in our waters, and from our traders. Their mackerel-fishing has greatly fallen off, which has been caused chiefly by the result of their mode of fishing, which has injured the ground. This has been done by their system of seining, and of throwing bait and offal overboard, which has caused the mackerel to be less sharp in biting. The other cause of the falling off in the mackerel-fishing is the low price of mackerel in the American markets, which makes the fishery less valuable and profitable. If the price of mackerel should go up, I believe the Americans would fish for mackerel now as much as ever.

5. The richest and best grounds for mackerel-fishing are within three miles of the shore. Most of the mackerel are caught there. When I was on board of an American vessel, we took nearly all our mackerel inshore.

6. The best mackerel-fishing we ever had along this coast was after the Reciprocity Treaty was terminated and the American vessels were kept off our grounds by the cutters. Our Canadian fishermen had the best catch then that ever they had, because they were undisturbed. When the Americans have the right to come within three miles, they watch our boats taking mackerel, and come up close to us, and then throw bait overboard in large quantities, and entice the fish away from the boats. They could not do this if they were not allowed to come inshore, because our boats take the fish in the bays and harbors, and within a mile from the shore; and it is only by coming close up to us that they can entice the mackerel away. Their vessels often run down our boats, and it is with difficulty that we escape out of the way.

7. The privileges which the Americans gain by the Treaty of Washington in being allowed to catch fish inshore, and to catch and buy bait, and to procure ice and outfits at our ports, I am safe in saying, is worth at least half as much to them per season as their whole fisheries on this

coast. I do not see how they could carry on their great cod-fisheries if they had not the privilege of getting bait and ice from us. All bait is got inshore, and the great part of it very close to the shore.

AGNUS GILLIES.

Sworn to at Port Hood, in the county of Inverness, this 23d day of July, A. D. 1877, before me.

JOHN MCKAY, J. P.

No. 274.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, JAMES O. FRASER, of Saint John's, Newfoundland, having been duly sworn, do depose and say that I have carefully examined the accounts of the government of the said island, and compiled therefrom the cost of erecting and maintaining the light-houses and fog-alarms between Cape Ray and Cape Race, and from thence to Quirpon, and that the annexed statement marked A, contains a true statement of the average annual expenditure for the maintenance of said light-houses and fog-alarms, and as deponent believes of the original cost of the said light-houses and fog-alarms.

In answer to Mr. Foster's question, I say that caplin continue upon the Newfoundland coast for a period of from five to seven weeks.

Halifax, Nova Scotia, fourth day of September, A. D., 1877.

JAMES O. FRASER.

Maintaining light-houses and fog-whistles on the coasts of Newfoundland, between Cape Ray and Cape Race, and from thence to Quirpon.

A.

	Cost of erec- tion.	Cost of main- taining.
Fort Amherst.....	\$9,000	\$1,300
Harbor Grace light.....	14,000	1,500
Harbor Grace beacon.....	400	400
Bacalieu.....	12,000	1,600
Green Island.....	7,500	1,500
Bonavista.....	10,000	1,900
Wadhams.....	10,000	1,400
Cape Spear.....	11,000	1,500
Ferryland Head.....	12,500	1,600
Cape St. Mary's.....	12,000	1,700
Cape Pine.....	12,000	1,560
Dodding Head.....	12,000	1,500
Brunette.....	9,000	1,250
Toolongate, Long Point.....	12,000	1,900
Puffin Island.....	2,500	1,000
Rose Blanche.....	2,600	1,000
Channel Head.....	2,500	1,000
Cann Island.....	2,500	850
Boar Island.....	2,500	900
Belloram.....	800	250
Port Point.....	600	250
Garnish beacon.....	400	220
Rocky Point.....	1,800	600
Carbonear Island.....	3,000	1,000
Cape St. Francis light-house and alarm.....	20,000	5,000
General repairs.....		2,150
Leading lights, St. John's, H.....	1,000	300
Cape Race light-house and alarm, Imperial Government.....	40,000	9,000
Cape Ray alarm, Imperial and Dominion Government.....		
	214,600	44,130

No. 275.

In the matter of the Fisheries Commission, at Halifax, under the Treaty of Washington.

I, JOHN BETHELL, of West Barcrow, in the county of Shelburne, fisherman, make oath and say as follows :

1. I have been engaged in taking fish for the last seven years inshore, by means of a trap set one hundred and fifty fathoms from the shore, low-water mark. We take in this trap all kinds of fish, principally mackerel, pollock and herring. Last year we took one hundred quintals of haddock. We take in each year about five hundred barrels of both mackerel and herring. Out of this, on an average each year, there would be one hundred and fifty barrels of mackerel.

2. Last year I supplied thirty-three Canadian schooners with bait and ice, besides supplying seventy-eight boats engaged in the inshore fisheries. The Canadian vessels took on an average of twelve dollars' worth of bait to each vessel. The boats take on an average of three dollars' worth of bait. Last year we supplied about forty tons of ice to Canadian vessels; this year about the same. Last year is about an average year's supply to Canadian vessels and inshore boats. This year we would have sold double of this supply to Canadian vessels if we had the bait. During the past four years I have supplied on an average ten American vessels. They took on an average between twenty and thirty dollars' worth of bait. The Americans always are very anxious to get this bait, and if they have bait they are almost always sure of fish.

JOHN BETHELL.

Sworn before me this 29th day of August, A. D., 1877.

D. SARGENT,

J. P. for the County of Shelburne.

No. 276.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, EDWARD D. TREMAIN, of Port Hood, in the county of Inverness, collector of customs, make oath and say as follows :

1. I have been, from information received from American fishermen and otherwise, somewhat acquainted with the fisheries on the coast of Nova Scotia and Cape Breton, Prince Edward Island, and the Magdalen Islands for some years past.

2. Among the last years of the Reciprocity Treaty, I believe that about eight hundred American fishing-vessels were yearly engaged in the fisheries along our coasts from the Strait of Canso northward. I should estimate the total tonnage of the American fleet in these waters at that time to be over fifty thousand, and as many as ten thousand men engaged. Their occupations embraced principally mackerel and codfish, but I believe herring, haddock, hake, and halibut were also taken.

3. The American fishermen begin to arrive on our coasts about the first of May each year, and continue their operations till about the tenth of November. Their vessels average about three trips per season.

4. American vessels were, under the said treaty, in the habit of frequenting this locality for the purpose of landing, procuring extra bait, obtaining sets of sails, getting men and outfits for extra trips, and occa-

sionally for reshipping cargoes to the United States. I consider the privilege of doing this granted by the Treaty of Washington a very valuable advantage to American fishermen.

5. I estimate the average money value to each American fishing-vessel taking advantage of the free access to provincial ports, bays, and harbors for piling, shipping bait and supplies, &c., at something between seven hundred and fifty dollars and one thousand dollars per season.

6. I believe the concession of the right to fish in American waters by Canadians is no advantage whatever to Canadians. I am not aware of any Canadians who have availed themselves of this privilege.

EDWARD D. TREMAIN.

Sworn to before me at Port Hood, in the county of Inverness, this 23d day of July, A. D. 1877.

JOHN MCKAY, *J. P.*

No. 277.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, ROBERT CURRIE, of Louis Harbor, in the county of Shelburne, justice of the peace, make oath and say as follows:

1. I have been well acquainted with the inshore fisheries in this county for forty years now past, and have had vessels engaged on the Labrador coast, and there is at present a vessel fishing out of this port on the Labrador coast. This vessel carries eighteen men, and is fitted out to take two thousand quintals of fish.

2. The vessels fitted out here get bait in this harbor, both herring and clams, the latter principally. At Port LeBear, six miles from here, large quantities of clams are obtained for bait, and the Americans get these clams at Port LeBear for bait. In this harbor and at Port LeBear these clams are dug on the shore and barreled, and sold principally at Lockeport. These clams are used in hand-lining.

ROBT. CURRIE.

Sworn to at Louis Harbor, in the county of Shelburne, this 22d day of August, A. D. 1877, before me.

JACOB LOCKE, *J. P.*

No. 278.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, PARKER MATTHEWS, of Black Point, in the county of Shelburne, fisherman, make oath and say as follows:

1. About thirty years ago I fished in the schooner Rapid, of Lockeport, in the North Bay for mackerel, and in three months we only took 80 barrels; the said schooner carried a crew of 10 hands.

I supply, at the present time, fishing schooners with ice. Last year I supplied three or four American schooners with ice; and the same number this present year. These vessels took about from eight to ten tons of ice last year, and the same amount this year. Last year and the present year I supplied from eight to ten Canadian vessels with ice, from four to five tons each.

The Americans could not carry on the fisheries on the Banks off this

coast without bait and ice. With the ice and bait which they procure here the Americans fish on LaHave, Brown, and Port LeBear Banks. Until this year the Canadian vessels took codfish all by hand-lining. The Americans always trawled with the bait and ice which they procured from me. I consider trawling a very injurious method of taking fish.

PARKER MATTHEWS.

Sworn to at Lockeport, in the county of Shelburne, this 22d day of August, A. D. 1877.

AUSTEN LOCKE, *J. P.*

No. 279.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, ROBERT DEAGLE, of Souris, in the county of Kings, and province of Prince Edward Island, but at present of Harbor-au-Bouche, in the county of Antigonishe, and province of Nova Scotia, fisherman, make oath and say as follows:

1. I have been a practical fisherman for the past twenty years. During ten years of that time I have been employed in American vessels from the port of Gloucester principally, and I have had large experience in and have a very perfect knowledge of seine-fishing. I have fished both on the American coast and in the Gulf of Saint Lawrence, and on the shores of Newfoundland and Labrador.

2. I am well acquainted with the cod fishery as carried on by the American fishermen in our waters, and I believe the practice of trawling, followed by the Americans fishing for codfish, tends to destroy the mother fish when they are spawning, and otherwise is injurious to the fishery.

3. I estimate that there has been an average of three hundred mackerel-catching vessels from United States ports in our waters during each of the last twenty years. I myself have known of four hundred sail of United States fishing-vessels in our waters in a single season, and there would be a great many of which I would have no knowledge. It is impossible for any one person to know of all the American vessels fishing in our waters in any one season. The average catch of mackerel each season is about three hundred and fifty barrels per vessel. Last spring there were about one hundred vessels fishing for herring at the Magdalen, and they caught their usual catch of from seven hundred to one thousand barrels per vessel. I have known one American vessel in the Gulf of Saint Lawrence to get fourteen hundred barrels of mackerel in a single season.

4. I have been seine-master of American fishing vessels, and have used seines in catching mackerel both in American and Canadian waters, and I perfectly understand fishing with seines. In American waters I have used seines two hundred and twenty-five fathoms long and thirty fathoms deep, and in our shallower waters I have fished, while employed in American vessels, with seines one hundred and eighty fathoms long and twenty fathoms or less in depth. The American mackerel fishery has been almost destroyed by using these seines, and it will not take long to ruin our fisheries if the Americans are permitted to use them here. It is only during the last two or three years that these "purse-seines," as they are called, have been used in our waters.

Fish are uselessly destroyed and the schools broken up and driven away by this practice.

5. From 1871 to 1874 the mackerel fishery in the gulf was fair. Their scarcity in 1875 and 1876 was owing to the variableness of the fish, which are sometimes scarce for a year or two, and then come in again as thick as ever. The prospect this year is very good, and quite a fleet of American vessels is already in the bay, and in all probability there will be three hundred or four hundred of them here this season, as there are no mackerel on their own coasts. I saw an American vessel, called the Eastern Queen, take from their seine at one catch what I was afterwards informed by the crew amounted to one hundred barrels of mackerel. On Sunday last four American mackerelers got very good catches; two of them got one hundred barrels each, and the other two got eighty and fifty barrels, respectively.

6. The inshore mackerel fishery is, to a large extent, within 3 miles of the shore, and I estimate that two-thirds of the mackerel caught by American fishermen on our coasts is taken within 3 miles of the shore; and I have no hesitation in saying that the inshore fishery is of far greater value than the outside, so far as the mackerel are concerned, and the herring fishery is almost altogether in shore.

7. Our boat fishery is much hindered by the Americans running in among the boats and drawing the fish off shore by means of throwing bait, and the bait they use is much better than what our fishermen have; thus they are enabled to entice away the fish, as the mackerel will follow the best bait. I think it would be better for our fishermen to have the inshore fisheries to themselves, even if the Americans put a heavy duty on fish.

8. The Americans cannot profitably carry on the cod and other deep-sea fisheries without resorting to our shores for bait, of which they buy a large quantity from our fishermen and merchants.

9. The privilege of fishing in American waters is of no advantage whatever to Canadian fishermen, and I have never heard of Canadians availing themselves of it.

10. The spawning and breeding places of the mackerel are principally in shoal water and inshore. I am of opinion that the great gale of 1873 may to some extent have caused the scarcity of mackerel in the gulf during the years 1875 and 1876, by driving out and destroying the small fish on which the mackerel feed.

11. Of late years the Americans are getting a good many halibut on the shores of Anticosti and near the Seven Islands, in the Lower Saint Lawrence.

ROBERT DEAGLE.

The said Robert Deagle was sworn to the truth of this affidavit at Harbor au Bouche, in the county of Antigonishe, this 28th day of July, A. D. 1877, before me.

EDWARD CORBET,

A Justice of the Peace.

No. 280.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, JAMES CAREY, of Port Mulgrave, in the county of Guysborough and Province of Nova Scotia, fisherman and trader, make oath and say as follows:

1. I have been a practical fisherman for twenty-five years of my life, and fishing was my sole employment up to the year 1871, since which time I have been both fishing and trading. I have fished for mackerel all around the shores of the Gulf of St. Lawrence, and in Chedabucto Bay. I have been herring fishing at the Magdalens, and on the shores of Labrador and Newfoundland. I have fished for codfish in the Straits of Northumberland. During about ten years of the twenty five, I was employed in American fishing-vessels.

2. I am of opinion that the American mackerel-fishing fleet up to the year 1874 would average four hundred sails at least each season. In 1875 and 1876 they were not quite so numerous. These vessels carried a crew of about fifteen men each, and the tonnage ranged from fifty to one hundred tons. The American herring fleet has averaged about thirty or forty sails each season. These mackerelers fish all around the Gulf of St. Lawrence, and the herring fishers go principally to the Magdalen Islands.

3. The average catch of mackerel per vessel during the whole twenty-five years that I have been acquainted with the fishery has been about five hundred barrels each season, worth from ten to twelve dollars per barrel. The herring fleet catch each season between eight and nine hundred barrels per vessel.

4. I consider the herring fishery about as good as ever it was. The mackerel are a variable fish, and in some years they are scarce, and then become plenty again after a year or two. In 1875 and 1876 they were somewhat scarce, but it is my opinion that they will come in again as plenty as ever they were.

5. The herring are caught almost altogether with seines. The mackerel are caught principally with hooks and lines, but of late years the American fishermen are using seines also to some extent.

6. During the Reciprocity Treaty the American fishermen fished for mackerel to a large extent within three miles of the shore. The herring fishery at the Magdalens is altogether inshore.

7. In my opinion, at least one-half the mackerel are caught within three miles of the shore, and almost all the herring are caught within that distance.

8. The principal breeding-places of the mackerel are, in my opinion, inshore in shoal water. Their coming inshore in the spring is, I believe, for the purpose of spawning.

9. It is an advantage to the American fishermen who supply the market with fresh fish to be allowed to procure bait on our shores. It is also very advantageous to them to procure ice on our shores to preserve their bait, and also to procure other supplies on our coasts.

The foregoing statements, according to the best of my knowledge and belief, are true in substance and fact.

his
JAMES + CAREY.
mark.

The said James Carey was sworn to the truth of this affidavit, the same having been first read over and explained to him, at Port Maitland, in the county of Guysborough, this 30th day of July, A. D. 1877, before me.

JAMES PURCELL,
A Justice of the Peace.

No. 281.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I. THOMAS PINKHAM, of Booth Bay, in the State of Maine, master mariner, make oath and say as follows:

1. I have been engaged in fishing for thirty-four years. I have fished along the American coast down to Cape Harrison in Labrador, and have taken mackerel, codfish, and the fish found on the above-mentioned coasts. I have fished on the Banks along the above-mentioned coast. Cod fish on the Banks is taken principally by trawling, which I consider a bad method of taking fish, as the mother fish are destroyed, which is not the case in hand-lining.

2. In taking mackerel, purse-seining is employed to a very large extent, which I also consider a bad way of taking mackerel. Large quantities are wasted, the schools of fish are broken up and frightened away. This year scarcely any mackerel are taken on the American coast. This I attribute to the large amount of purse-seining that has been done on that shore.

3. We get bait and ice in the Canadian ports to carry on the Bank fishing, which benefits the inhabitants, and enables us to carry on the Bank fishery.

THOMAS PINKHAM.

Sworn to at Sand Point, in the county of Shelburne, this 24th day of August, A. D., 1877, before me.

JOHN PURNEY, *J. P.*

No. 282.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I. REUBEN HARLOW, of Shelburne, in the county of Shelburne, merchant, make oath and say as follows:

1. I am the proprietor of an ice-house situated at East Point, in the above-named county. I sold two hundred and fifty tons of ice this year and last—one hundred tons to Canadian vessels and one hundred and fifty to American vessels. About fifteen American vessels have been supplied each year during the two now past. About one hundred have called which have not been supplied. The Americans say it is a very valuable privilege to be allowed to obtain this ice in our ports.

REUBEN HARLOW.

Sworn to at Shelburne, in the county of Shelburne, this 24th day of August, A. D. 1877, before me.

JOHN BOWER, *J. P.*

No. 283.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I. JUDAH C. SMITH, of Barrington, at present at Lockeport, in the county of Shelburne, master mariner, make oath and say as follows:

1. I have been engaged since the first of May now past in the taking

of fish by a trap, for the purpose of taking deep-sea fish. At this trap large numbers of vessels are supplied with bait, most of whom are Canadian. During the past five days, six American vessels have run here for bait, none of whom we were able to supply. If the Americans do not get bait here they run to other Canadian ports for this bait, for without it they could catch no fish. Since the first of May I have baited eight American vessels, which took, on an average, twenty-five barrels of bait each. Twenty Canadian vessels have been supplied with bait, and have taken on an average fifteen barrels each.

JUDAH C. SMITH.

Sworn to at Lockeport, in the county of Shelburne, this 24th day of August, A. D. 1877, before me.

AUSTEN LOCKE, *J. P.*

No. 284.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, AMOS H. outhouse, of Tiverton, in the county of Digby, make oath and say as follows :

1. Have been engaged in the fishing business for thirty years.
2. At least five hundred American vessels from all ports of the United States annually fish for mackerel, codfish, and halibut, in the Bay de Chaleur, and on the shores of Nova Scotia ; this is within my knowledge for the past thirty years.
3. The average quantity of mackerel taken by each American fishing-vessel in the Bay de Chaleur is about three hundred barrels, and seven hundred quintals of codfish.
4. The present condition of the fishery is not as good as in the past, for mackerel, codfish, halibut, herring, hake, and pollock.
5. The Americans use trawls chiefly for codfish and halibut ; mackerel by hook and line and seines.
6. Great injury is done to the fishing grounds by the American fishermen throwing overboard offal ; it drives the fish from the fishing grounds.
7. American fishermen usually fish close to the shore, and have before and during the Reciprocity Treaty of 1854, and before and during the Treaty of Washington, at the Bay de Chaleur and Bay of Fundy.
8. The value of inshore fisheries are more valuable than outside.
9. American fishermen catch bait within three miles from the shores and in the bays, with nets, on the shores of Nova Scotia, to a great extent.
10. Halibut, codfish, haddock, hake, and pollock are caught by the American fishermen in the inshore waters of Canada, and the same kinds of fish are also caught inshore by Canadian fishermen.
11. Since the Treaty of Washington of 1871, the fish have decreased very much in the Bay of Fundy, for the last five years, as much as twenty per cent., which is caused by using trawls.
12. American fishermen have caused great injury to the fisheries in the Bay of Fundy, by the use of trawls, since the Treaty of Washington.
13. The herring fishery in Canadian waters is greater inshore than outside, and American fishermen catch herring for bait and for sale in the Bay de Chaleur, Bay of Fundy, and St. Mary's Bay.
14. Mackerel caught in Canadian waters are as good, if not better,

than those caught in American waters ; take one year with another, the price would be about the same in the United States market.

15. The opportunity of transshipping cargoes enjoyed by American fishermen since the Treaty of Washington is a great advantage to them. I have known American vessels to make three trips in one season, by transshipping their cargoes at the Bay de Chaleur.

16. It is a great advantage to American fishermen to procure bait in the Canadian inshores, and it is more profitable and causes them less delay to buy it than to catch it.

17. The American fishermen cannot carry on the cod and other fisheries of the deep sea around our coasts, without the privilege of resorting to our inshores to procure bait, and would have to abandon the business to a great extent if they were deprived of the privilege.

18. It is a great advantage to American fishermen to resort to Canadian inshores for ice and other supplies required in their fishery business.

19. The privilege of fishing in American waters is of no practical advantage to Canadian fisherman. I never have known any of our Canadian fishermen to make any use of their fishing-grounds.

20. The privilege to each American vessel of procuring bait and transshipping cargoes in Canadian inshores, would be at the least one thousand dollars.

21. The Americans having free access to our Canadian inshore fisheries, and the large quantities of all kinds of fish taken by them, hinders the Canadians from getting as good a market as they would if they had the exclusive right of the inshore fisheries.

The foregoing statement is correct to the best of my knowledge and belief.

Captain A. H. outhouse.

Sworn before me at Tiverton, in the county of Digby, this 13th August, A. D. 1877.

JOHN A. SMITH, J. P.

No. 285.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, JOHN MERCHANT, of Hardwicke, in the county of Northumberland, fisherman, make oath and say as follows :

1. I have been fifteen seasons, or years, engaged in business as a fisherman in Bay Chaleur, Miramichi Bay, Gaspé, all through the Gulf of Saint Lawrence, and all along the shore of Kent County ; and was also five years as master on board of various American fishing-vessels—say three years in the Oak Grove, two years in King Fisher, both belonging to the port of Belfast, United States. The balance of the fifteen years I was chiefly engaged in small and large vessels of Miramichi Bay and Prince Edward Island, and in different places around our coast.

2. During the years I was master of Oak Grove and King Fisher, the number of sail would average about 500 sail, would average about fifteen men each, and tonnage about 75 ; and the places fished were Prince Edward Island, Bay Chaleur, Miramichi Bay, Gaspé ; the kind of fish caught, mackerel.

3. I would say the average catch during the five years I was fishing was about 400 barrels each vessel, valued about \$12 per barrel.

4. Mackerel are as plentiful now as when I fished.

5. Modes chiefly used in capturing mackerel were seining and jigging.

6. I consider the fishing water injured by throwing overboard chaff from mackerel; but offal from codfish is very injurious, as the bones swallowed by the mackerel penetrate the fish, causing a large quantity to die.

6. I would say, two-thirds of the mackerel, during the time I have fished, were caught within the three-mile limit.

7. I consider the inshore fishery of great value to the American fishermen, and, in fact, could not do without it.

8. American fishermen still use the seine for taking mackerel. The manner used is: The seine is stretched out and around the school of mackerel, then hauled in together, then scooped out into the boats. I do not think the manner any way injurious, as when they find more than can be cared for, the seine is tripped and the mackerel let go. The seines are used inside the limit the same as other places—in fact, any place where mackerel is seen.

9. Mackerel have not decreased since 1871, as in some places. They are plentiful. The winds and feed is the cause of their scarcity in different localities.

10. Herring are caught entirely inshore.

11. Mackerel caught in Canadian waters are fully one-third better than caught in American, and bring prices one-third more than American mackerel caught in American waters.

12. The food of mackerel is about equally divided within the limit and outside. They feed on shrimps, smelt, fry, and smaller fishes. Their breeding places are around the sheltered bays and estuaries, during the months of May and June.

13. I consider the privilege to land by American fishermen very great. If deprived of this privilege they could not carry on their business.

14. It is a great advantage to be allowed to transship cargoes. It saves great loss of time and expense to owners. It enables them to make two trips during the season, sometimes three; and once I knew of five shipments of two hundred and fifty barrels each.

15. I consider it a great advantage to be enabled to buy bait from Canadian fishermen, and much easier and more profitable than fishing for it, as the bait is not procurable always when wanted.

16. It is considered impossible to carry on deep-sea fishing in Canadian waters without being enabled either to catch or buy the bait inshore.

17. I consider the privilege of fishing in American waters of no value to Canadian fishermen. I never knew of a Canadian fisherman resorting to American waters to fish.

18. I have known instances where United States citizens have carried on considerable trade with the inhabitants of the localities where they fish.

19. Do not consider that it hinders the operation of Canadian fishermen.

J. S. MERCHANT.

Sworn to before me, at Hardwicke, this 14th day of August, 1877.

ALEXANDER MILLS, J. P.

No. 286.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, WALLACE TRASK, of Little River, in the county of Digby, fisherman, make oath and say as follows:

1. I have been engaged in fishing for twelve years now past, and am still so engaged, altogether on the inshore grounds in this county. I fish from close inshore to off six miles, and catch most of the fish I take within three miles of the shore. I fish every year on the north and south side of Digby Neck, and take codfish, haddock, hake, pollock, halibut, and herring, the latter principally for bait.

2. On the north side of Digby Neck, the place at which we fish is called Whale Cove; on the south side the port is called Little River.

3. At Whale Cove I have counted forty sail of fishing-vessels at one time, in the latter part of June; most of these vessels were American, from the State of Maine. These American vessels are from five to forty tons each, and carry from five to twelve men on each vessel. They take fish altogether by trawling, and do so close inshore among our boats, within three miles of the shore.

4. These American vessels set their nets for bait inshore, close in to the shore, and so many of them take up the grounds and carry away the bait from us.

5. These American vessels take from two to six hundred quintals of fish to each vessel. They throw their gurry overboard on our inshore boat grounds, and sometimes among our nets.

6. Our fishermen all bring their gurry inshore, in order to protect the grounds.

7. At Little River, on the south side of Digby Neck, from fifteen to twenty American vessels have fished inshore for the same kinds of fish as we take. They set their nets for bait, and throw "gurry" overboard on the inshore grounds.

8. Since 1871 the Americans have come upon our inshore grounds and interfered with our fishing.

9. American vessels come around here with purse seines for mackerel.

WALLACE TRASK.

Sworn to at Little River, in the county of Digby, this 1st day of September, A. D. 1877, before me.

J. W. DENTON, J. P.

No. 287.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, GEORGE E. MOSLEY, of Tiverton, in the county of Digby, fisherman, make oath and say as follows:

1. I have been engaged in fishing for twenty years now past, and am still so engaged. I fish from inshore to offshore three miles, and take codfish, haddock, hake, pollock, halibut, and herring, the latter principally for bait.

2. From eight to ten American vessels come here on our inshore grounds on which we fish, and trawl for the same kind of fish that we do. They have come on our inshore grounds since 1871.

3. These American vessels are from nine to sixty tons each, and carry from eight to ten men each. These American vessels carry away four hundred quintals of fish each.

4. They set their nets for bait on our inshore grounds, which interferes very much with the setting of our nets, as they take up the ground and take the bait away from us. They keep their nets set both day and night, a whole week at a time.

5. They throw overboard their offal from their fish on our inshore grounds, which is very injurious to our grounds. Our fishermen, of which there are about two hundred out of this place, bring their gurry inshore on the gurry-grounds set apart for this purpose—both boats and vessels. There are from eight to ten vessels, from fifteen to twenty five tons, engaged in fishing out of this port, besides a large number of boats. The vessels bring their gurry ashore, having kids on board to keep the gurry.

6. Large numbers of Americans come into St. Mary's Bay every spring for fish. Thirty at least come and trawl around here for all the kinds of fish found in St. Mary's Bay. American vessels also come with purse seines on board for mackerel.

GEORGE E. MOSLEY.

Sworn to at Tiverton, in the county of Digby, this 1st day of September, A. D. 1877, before me.

JOHN A. SMITH, *J. P.*

No. 288.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, CHARLES H. PAYSON, of Westport, in the county of Digby, merchant, make oath and say as follows:

1. I have during three years now past supplied American vessels with ice—about thirty tons each year, and about twenty tons to Canadian vessels. These vessels use this to preserve their (1 bait); and with this ice and bait they fish on the coast along here.

C. H. PAYSON.

Sworn to at Westport, in the county of Digby, this 31st day of August, A. D. 1877, before me.

H. E. PAYSON,
J. P., County of Digby.

No. 289.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, ELEAZAR CROWELL, of Clarke's Harbor, in the county of Shelburne, merchant, make oath and say as follows:

1. I have been engaged in the buying and selling of fish for twenty years. I have gone fishing for seventeen years, mostly in the inshore fisheries in this county.

2. Large numbers of American vessels run in here for bait. They come and go here every week. With the bait the Americans get here they trawl for codfish and halibut.

3. Around this harbor large quantities of mackerel are taken, principally in traps, and the Americans purchase them for bait. The selling of these mackerel to Americans is of no advantage to us, as we can sell them in other markets. Thousands of barrels of mackerel are taken around in this vicinity: as many as six thousand barrels at least last year were taken. The mackerel taken in here bring better prices in American markets than the mackerel taken in American waters. I have been informed of Americans being interested in traps for mackerel around here. The Americans purchase the most of their bait here, because by so doing they save time. All the American vessels which run here carry nets to catch bait.

4. American vessels run in here and sell their small fish; by so doing they are enabled to purchase bait and supplies, and carry home a cargo of large and valuable fish. The Americans run in here for supplies when they run short, sometimes for salt; by so doing they are greatly benefited.

5. The trawling carried on by the Americans on the Banks off the shore is, in my opinion, very injurious to the fisheries. Trawling has been carried on to a considerable extent lately by our fishermen. They have been compelled to do so, in order to compete with the Americans.

6. The Americans also get large quantities of herring here for bait. These herring are all taken inshore within three miles of the shore. On this island there is a population of over two thousand, and there are upwards of four hundred boats engaged in fishing around this island. Many of these boats take one hundred and seventy-five quintals of fish each.

ELEAZAR CROWELL,
Merchant.

Sworn to before me this 27th day of August, 1877.

D. G. DALEY, *J. P.*

No. 290.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, DANIEL V. KENNY, of Cape Sable Island, in the County of Shelburne, fisherman, make oath and say as follows:

1. I have been engaged in the fisheries for twenty years now past, mostly in the inshore fisheries in Shelburne County, and have been engaged in American vessels in Bank fishing from 1870 to 1874. We got our bait in Canadian ports, and we could not have carried on the Bank fishing successfully unless we got this bait in Canadian ports inshore. When fishing in the American vessels we took codfish on the Banks by trawling, which I consider very injurious to the fisheries, as it destroys the spawn fish. When fishing in the American vessels we trawled inshore around Cape Breton, on Anticosti, and around Newfoundland within three miles of the shore. In getting bait our supply is interfered with by American vessels, as they often gobble up the bait from us and make it dearer.

DANIEL V. KENNY.

Sworn to at Cape Sable Island, in the county of Shelburne, this 27th day of August, A. D. 1877, before me.

D. G. DALEY, *J. P.*

No. 291.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, GILBERT MERRITT, of Sandy Cove, in the county of Digby, fisherman, make oath and say as follows:

1. I have for seven years now past been engaged in fishing in this county all inshore, off to six miles from the shore. The most of the fish I take is within three miles of the shore. I take codfish, haddock, hake, pollock, halibut, and herring; the latter principally for bait.

2. Since 1871, large numbers of American vessels come round here to fish, and fish upon our inshore grounds, within three miles of the shore. In this harbor many American vessels come. I have seen here this last spring from eight to ten American fishing vessels at one time. They buy and catch bait. They catch more than they buy by setting their nets inshore, within three miles of the shore.

3. These American vessels which come here are from ten up to sixty tons each, and carry from six to twelve men, and are fitted out to take from one hundred to four hundred quintals each. They generally take full fares.

4. The American vessels which get bait here fish in this bay (St. Mary's), which is here only five miles across.

5. Last summer and this American purse-seiners were here for mackerel, and have hove their seines and taken them here.

6. Out of this port there are twenty-seven boats engaged in fishing inshore, and three vessels which fish part of the time off shore. These boats and vessels carry seventy-four men, and bring their gurry inshore and use it on their farms for manure. The Americans who fish around here on our inshore grounds throw their gurry overboard, which is very injurious to the grounds.

7. Inside Sandy Cove and the outside Sandy Cove, the latter being on the Bay of Fundy, from eight to ten American vessels fish on our inshore grounds every year. These vessels are of the description already stated.

GILBERT MERRITT.

Sworn to, at Sandy Cove, in the county of Digby, this 1st day of September, A. D. 1877, before me.

SAMUEL SAUNDERS, J. P.

No. 292.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, CHARLES W. DENTON, of Little River, in the county of Digby, fisherman, make oath and say as follows:

1. I have been engaged in fishing on the inshore grounds in Digby County for seven years, and am still so engaged. I have always taken the most of my fish within three miles of the shore, and have taken codfish, haddock, hake, pollock, and halibut—herring we take principally for bait.

2. On the north side of Digby Neck, the place at which we fish is called "Whale Cove"; on the south side of Digby Neck the port is called "Little River."

3. At Whale Cove I have counted forty sail of vessels in June last, the most of whom were American, all engaged in fishing inshore, within three miles of the shore. These American vessels are mostly from the State of Maine. They are from five to forty tons each. They carry from five to twelve men on each vessel. They take fish altogether by trawling, and do so close inshore among our boats within three miles of the shore. At Whale Cove there are upwards of sixty Digby fishermen engaged in fishing, and there would be more if the Americans were not allowed to fish on our inshore grounds. These American vessels set their nets for bait inshore, close in to the shore, and so many of them take up the grounds and carry away the bait from us.

4. These American vessels take from two to six hundred quintals of fish to each vessel. They throw their gurry overboard on our inshore grounds and sometimes among our nets.

5. Our fishermen bring their gurry all inshore in order to protect the grounds.

6. At Little River, on the south side of Digby Neck, where we commence fishing in April and fish until June, then going to Whale Cove, from fifteen to twenty American vessels fish inshore for the same kinds of fish as we do. They set their nets for bait, and throw gurry overboard on the inshore grounds within three miles of the shore.

7. American vessels come around here with purse-seines for mackerel, and I have heard they took two hundred barrels in one day.

CHARLES W. DENTON.

Sworn to at Little River, in the county of Digby, this 1st day of September, A. D. 1877, before me.

J. W. DENTON, *J. P.*

No. 293.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, JOSEPH E. DENTON, of Little River, in the county of Digby, fisherman, make oath and say as follows:

1. I have been engaged in fishing for 15 years now past, and am still so engaged altogether on the inshore grounds in this county, going off sometimes six miles from the shore. I fish every year on the north and south side of Digby Neck, and take codfish, haddock, hake, pollock, halibut, and herring; the latter principally for bait.

2. On the north side of Digby Neck, the port at which we fish is called "Whale Cove"; on the south side the port is called "Little River."

3. At Whale Cove I have counted forty sail of fishing vessels at one time, in the latter part of June, most of whom were American vessels from the State of Maine. These American vessels are from five to forty tons each, and carry from five to twelve men on each vessel. They take fish altogether by trawling, and do so close inshore among our boats.

4. These American vessels set their nets for bait, and so many of them take up the grounds and carry away the bait from us.

5. These American vessels take from two to six hundred quintals of fish to each vessel.

6. These American vessels throw their gurry overboard on our inshore grounds, within three miles of the shore, among the nets sometimes.

7. Our fishermen bring their gurry on shore in order to protect the grounds.

8. At Little River, on the south side of Digby Neck, from fifteen to twenty American vessels have fished inshore for the same kinds of fish as we have fished. They have set their nets for bait, and thrown their gurry overboard on the inshore grounds.

9. Since 1871 the Americans have come on our inshore grounds, and this summer more numerous than ever before.

10. American vessels come around here with purse-seines for mackerel, and one is said to have taken two hundred barrels of mackerel in one day within three miles of the shore. The bay here is only six miles across. I mean by the bay, St. Mary's Bay.

JOSEPH E. DENTON.

Sworn to at Little River, in the county of Digby, this 1st day of September, A. D. 1877, before me.

J. W. DENTON, J. P.

No. 294.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, JOHN MCKAY, of Tiverton, in the county of Digby, master mariner, make oath and say as follows :

1. I have been engaged in the fisheries in this vicinity for ten years, and am well acquainted with the fisheries around St. Mary's Bay. We take around this bay codfish, haddock, hake, pollock, halibut and herring, mostly all within three miles of the shore.

2. Large numbers of Americans come around here since eighteen hundred and seventy-one, and have fished on our inshore grounds. They have also set their nets for bait in this harbor and around here within three miles of the shore, which interferes with our supply to a large extent.

3. From eight to ten American vessels fish around this harbor on our inshore ground, and from twenty to thirty at least in St. Mary's Bay. These are from the vessels in this harbor and in St. Mary's Bay, are from ten tons to sixty tons, and carry from five to twelve men. (Sic.)

4. So many Americans coming here interferes with our inshore fishery to a large extent, by taking away the fish from us, by trawling and catching bait, and throwing overboard their gurry.

5. Our boats and vessels bring their gurry ashore on to gurry grounds set apart for this purpose.

6. American vessels come here every year with purse-seines for mackerel.

JOHN MCKAY.

Sworn to at Tiverton, in the county of Digby, this 1st day of September, A. D. 1877, before me.

JOHN A. SMITH, J. P.

No. 295.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, WHITEFIELD OUTHOUSE, of Tiverton, in the county of Digby, fisherman, make oath and say as follows :

1. I have been engaged in fishing inshore in this county for thirty

years now past, and am still so engaged. I fish from inshore, off to three miles, and there are about fifty boats here so engaged. We take codfish, haddock, hake, and pollock, and herring, the latter principally for bait.

2. From eight to ten American vessels since 1871 come here on our inshore grounds, and take fish in our harbor, and within three miles of the shore. These vessels are from nine to sixty tons, and carry from five to nine men each. They take fish mostly by trawling. They trawl in this harbor close inshore. They get bait by setting their nets, which interferes very much with the inhabitants here, as they take up the grounds so that we find it difficult to get a place for our nets, and take away the bait from us. They set their nets Saturday, and keep them set on Sunday, which the inhabitants here do not. They keep their nets set during the day-time, which is injurious to the herring fishery.

3. The Americans here throw their "gurry" overboard, which our small vessels and boats do not do. We have a gurry ground here laid out, where our fishermen throw their "gurry."

4. There are eight vessels owned here which fish off to four or five miles from the shore, and from that into the shore. These vessels are from fifteen to twenty-five tons each, and carry from six to ten men. These vessels take on an average each year eight hundred quintals of fish each, and bring all their gurry inshore.

5. Every spring, from 1871, American vessels, at least thirty sail, come into St. Mary's Bay, and around here, and trawl for fish, which is a great injury to us fishermen. These vessels come mostly from Eastport, Me. Every summer American vessels come here with seines—purse-seines—for mackerel.

WHITEFIELD OUTHOUSE.

Sworn to at Tiverton, in the county of Digby, this 1st day of September, A. D. 1877, before me.

JOHN A. SMITH, *J. P.*

No. 296.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, JOHN W. SNOW, of Digby, in the county of Digby, fisherman, make oath and say as follows:

1. I have been engaged in the fisheries for thirteen years now past, and am still so engaged. I fish in Annapolis Basin and in the Bay of Fundy. I take fish within three miles of the shore; codfish, haddock, pollock, hake, halibut, and herring, the latter principally for bait, and get this herring all inshore, within three miles of the shore.

2. Since 1871 I have seen in this harbor at one time from eight to ten American vessels. These vessels come here to harbor and for bait. They set their nets here in Annapolis Basin and along the Bay of Fundy. They all set their nets for bait inshore, the same as our own fishermen. With this bait they trawl for fish both inshore and off shore around the coast in this vicinity.

3. These American vessels which fish around here throw all their "gurry" overboard, which is a great injury to our fisheries.

4. Since 1871 American purse-seiners come around our inshore grounds for mackerel. There were two American purse-seiners in this harbor this summer.

5. The American vessels which come around here nearly all trawl,

which is a very injurious way of taking fish. Our fishermen have only commenced trawling to any considerable extent within the two years now past, and have been compelled to do so in order to compete with the Americans.

JOHN W. SNOW.

Sworn to at Digby, in the county of Digby, this 3d day of September, A. D. 1877, before me,

JOHN DAKIN, J. P.

No. 297.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, JAMES PATTERSON FOSTER, of Port Williams, in the county of Annapolis, merchant and dealer in fish, make oath and say as follows :

1. I have been acquainted with the fisheries along the coast of this county for twenty-five years now past, and am at present acquainted with them.

2. I have dealt in codfish, hake, and herrings.

3. Since 1871, about half a dozen American vessels come in here, principally for bait, which they get by setting their nets inshore within three miles of the shore, mostly within a mile of the shore. This number have come here every year since 1871. Some of them take cargoes of herring.

4. Some of these American vessels take from four to five hundred barrels of herring around this port and in this vicinity inshore within a mile of the shore ; at least four or five do so every year since 1871. These American vessels are from twenty to fifty tons each.

5. The herring taken in this vicinity range in price from two to four dollars per barrel.

6. The American vessels fish off shore beyond three miles from the shore for codfish, haddock, hake, halibut, and pollack, and get the bait which enables them to do so inshore by setting their nets for it.

7. The American vessels which fish around here come early in April, and remain until the last of August.

8. It would be a great advantage to the fishermen in this vicinity and along the coast of Annapolis County if the Americans were excluded from our inshore grounds, as they take large quantities of herring for bait, and also cargoes of herring from our inshore grounds, and injure our inshore grounds by throwing "gurry" overboard.

9. I have never known nor heard of any of our fishermen going to fish on the American coast, and this right given us by the Treaty of Washington is of no value to us.

JAMES P. FOSTER.

Sworn to at Port Williams, in the county of Annapolis, this 6th day of September, A. D. 1877, before me.

JOHN ANTHONY,

Justice of Peace, Acting in and for the County of Annapolis.

No. 298.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, BYRON P. LADD, of Yarmouth, in the county of Yarmouth, merchant, make oath and say as follows :

1. I have been engaged in trading and outfitting fishermen for the

last twenty-five years; at Westport from 1843 to 1870, the remainder in Yarmouth.

2. The fishing by American vessels in Canadian waters varies very much from year to year; from fifteen to twenty vessels yearly usually put in at Westport for supplies, &c.: during my residence there, have known years when mackerel were plenty; as many as seventy or eighty vessels fishing in St. Mary's Bay; the number of American vessels in other waters on the Canadian shores, I have no personal knowledge.

3. There is an improvement in the inshore cod fishery for the past four years.

4. American fishermen use trawls chiefly for cod-fishing, seines and hook and line for mackerel, nets for herring.

5. I consider the value of the inshore fisheries much greater than the outside, particularly for mackerel.

6. American fishermen use purse-seines, and they are considered very injurious to the mackerel fishery.

7. American fishermen yearly catch codfish, halibut, hake, haddock and mackerel on the inshores of Nova Scotia.

8. Americans buy herring for bait from our inshore fishermen. Do not think they fish very much for them.

9. My opinion is that the mackerel caught in the Bay de Chaleur are better than those caught in American waters, and would command a higher price in the American markets.

10. Mackerel feed inshore.

11. It is a very great advantage to American fishermen to land their fish in Canadian waters.

12. The privilege of transshipping cargoes of fish by Americans in Canadian waters is very great, particularly the mackerel fishery; it enables them to prosecute that fishery to much greater advantage and profit.

13. It is more profitable to the Americans to buy bait when they can; they only fish for it when they cannot buy it.

14. The Americans could not carry on the cod fishery with any profit without having access to our Canadian inshores to procure bait and other supplies.

15. The privilege of fishing in American waters is of no practical value or advantage in any way to Canadian fishermen.

The foregoing statement is true and correct to the best of my knowledge and belief.

BYRON P. LADD.

Sworn before me at Yarmouth, in the county of Yarmouth, this 10th day of September, A. D. 1877.

ENOS GARDNER, J. P.

No. 299.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, ABRAM THURSTON, of Sanford, in the county of Yarmouth, fisherman, make oath and say as follows:

1. Have been engaged shore-fishing for the last twenty-eight years, mostly boat-fishing for codfish, halibut, pollock, herring, and mackerel.

2. Inshore boat fishing for halibut and codfish is not as good as it was in the past; haddock are much more plenty; herring are about the same; mackerel are much more plenty, particularly the present year. The increase in the catch of mackerel is very large in the county of Yarmouth.

3. I believe that the practice of throwing fish offal on the fishing grounds is very injurious, and is practiced to a large extent.

4. Some few years ago American fishermen fished close in to our shores in the Bay of Fundy for halibut.

5. The value of the inshore fisheries are much greater value than the outside.

6. American fishermen catch halibut in the inshore waters of Canada; they catch some codfish inshore. Halibut, codfish, haddock, hake, and pollack are caught inshore by Canadian fishermen.

7. I can only speak of the locality in which I reside for boat fishing, mostly since 1871. Codfish are not so plenty; halibut has also decreased; and my opinion is that trawling in the past by American fishermen, and some also by our own fishermen, have injured the halibut fishery very much.

8. The food of mackerel is chiefly inshore. The first mackerel that comes on our shores are full of spawn; their principal feeding and breeding places are inshore.

9. Should think the privilege of transshipping cargoes enjoyed by American fishermen since the Treaty of Washington is a very great advantage to them; it would certainly allow them to catch more fish and make more trips.

10. It is a very great advantage to Americans to be able to procure bait in the Canadian inshore bays, creeks, and harbors, and it is more profitable for them to buy it than catch it themselves. I supplied two American vessels with fresh mackerel for bait this present year for \$120.

11. I do not consider or believe that the American fishermen could carry on the deep-sea fisheries around our Canadian coasts without the privilege of resorting to our inshores to procure bait.

12. It is a great advantage to Americans to resort to Canadian inshores for ice to preserve bait and other supplies to carry on their fishery business.

13. The privilege of fishing in American waters is no practical value or advantage to Canadian fishermen; do not believe our fishermen make any attempt to fish in the American waters.

14. I know that it must be very much to the advantage of American fishermen to procure bait and transship cargoes in Canadian inshores, but cannot give an estimate of the value.

15. American fishermen in their operations do not hinder Canadian fishermen, but the large quantities of fish caught by them would certainly make a lower market for Canadian fish than if they were excluded from our inshores.

The foregoing statement is true and correct, to the best of my knowledge and belief.

ABRAM THURSTON.

Sworn before me at Sanford, in the county of Yarmouth, this 8th day of September, A. D. 1877.

ENOS GARDNER, J. P.

No. 300.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, SAMUEL M. RYERSON, of Yarmouth, in the county of Yarmouth, merchant, make oath and say as follows:

1. I have been engaged since 1861 in outfitting fishermen for cod,

mackerel, and herring fishery, and am at present engaged in that business as one of the firm of Ryerson & Moses to a small extent.

2. I know that there are several hundred American vessels yearly engaged in fishing in Canadian waters; they average from ten to fifteen men per vessel. They fish in the Bay of Fundy and St. Mary's Bay for codfish, halibut, and mackerel.

3. They take from 800 to 1,500 quintals codfish per trip. Halibut is taken to their market in ice in small quantities; cannot give estimate of mackerel trip, as their fares are generally carried to their ports without stopping here.

4. The American fishermen use trawls mostly for codfish, halibut, and haddock; mackerel on the Nova Scotia shores are mostly taken by seines by them.

5. Most of the mackerel caught on the Canadian inshores are caught close inshore, from half a mile to three miles from shore. The Americans catch large quantities of halibut inshore, from one to three miles from the shore.

6. The value of the inshore fisheries are as valuable as the outside; for bait they would be more valuable.

7. I know that American fishermen use purse-seines for taking mackerel, and have taken large quantities in that way, and they are very injurious to the fishery wherever they are used.

8. I know that American fishermen set their nets along our shores for the purpose of catching bait, and get all they require.

9. Large quantities of halibut, codfish, pollack, haddock, hake, and mackerel are caught by American fishermen in the inshore waters of Canada; the same are caught inshore by Canadian fishermen.

10. There has been a large increase in the cod fishery since 1871. Mackerel has also increased in the county of Yarmouth the past few years.

11. If American fishermen had been prohibited from fishing in Canadian waters, the Canadian fishermen would have probably caught double the quantity.

12. The herring fishery in Canadian waters is nearly all inshore. American fishermen catch herring for bait; they buy them for sale.

13. I do not think there is any difference in the quality of the mackerel caught in the Canadian or American waters, and the value in their markets would be about the same.

14. The mackerel follow the shores and feed.

15. It is a great advantage to American fishermen to transship their cargoes at Canso; it enables them to catch two fares during the fishing season.

16. American fishermen could not carry on their fisheries, or make profitable voyages, without the privilege of buying and catching bait from the Canadian inshores.

17. It is a great advantage to Americans to have the privilege of purchasing ice to preserve their bait from Canadian inshores, large quantities of which is furnished to American fishermen during the fishing season. They also employ large numbers of our men for crews, which they also find is greatly to their advantage.

18. Do not think Canadian fishermen use American waters for fishing purposes; it is of no practical use, our own fishery being so much better.

19. Should think the privilege to American fishermen procuring bait and being allowed to transship their cargoes in Canadian inshores would be at least from six to eight hundred dollars per vessel yearly.

20. I do think that fishing by American fishermen hinders the fishing operations of Canadian fishermen. Our vessels would take many more fish if they had the exclusive right to the inshore Canadian fisheries.

21. Our fishermen are employed largely by American fishermen, and take their supplies in American ports. The American vessels land the goods to the families of the fishermen without paying duties, and in the fall the wages are mostly expended for supplies, which come over in some of our coasters, and landed in the same way.

The foregoing statement is true and correct, to the best of my knowledge and belief.

SAMUEL M. RYERSON.

Sworn before me at Yarmouth, in the county of Yarmouth, this 11th day of September, A. D. 1877.

ENOS GARDNER, J. P.

No. 301.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, ROBERT S. EAKINS, jr., of Yarmouth, in the county of Yarmouth, merchant, make oath and say as follows :

1. Referring to my memorandum made 12th August, 1873, as then I have some indirect knowledge of the fisheries from 1865 to 1876.

2. The extent of American fisheries in Canadian waters during the (11) eleven years from 1865 to 1876 was very great; I should say from 1,000 to 1,500 vessels from all ports of the New England States fished in Canadian waters, averaging about twelve men to each vessel, during years 1865 to 1870.

3. The quantity of fish usually average, if codfish, two thousand quintals; if part of year codfish, fourteen hundred quintals; balance year mackerel, three hundred barrels for trip.

4. As far as my knowledge goes, the American vessels usually trawl their codfish, halibut, and haddock partly in our waters and partly outside. The mackerel are principally caught in seines, purse seines, dressed on board the vessels, the offal being thrown overboard.

5. For mackerel, in Bay de Chaleur they always fish with hook and line, or used to, during the years I named, and always inshore, quite close to the land, near Magdalen Islands, Prince Edward Island, Cape Breton, and Nova Scotia.

6. I should say the value of the shore fisheries was much greater than outside, more especially for mackerel fishing.

7. The American fishermen use purse seines, by means of large boats sweep it around a school of mackerel, draw in the bottom, and have the fish in a sort of large bag, from which they are taken on board the vessel and dressed at leisure.

8. American fishermen yearly catch more or less fish inshore in our water, such as halibut, codfish, and haddock, besides mackerel, which are almost entirely caught inshore.

9. Do not think the Americans trouble themselves much about catching herrings; they buy them when they can from our people for bait.

10. We formerly considered our Bay de Chaleur mackerel the best in America, but for some years past the quality has not been so good as formerly. I have known our mackerel to sell by the cargo in the United States at \$26 per barrel gold in the years 1859 and 1860.

11. I am of the opinion that the mackerel feed principally inshore.

12. It is considered a great advantage to American fishermen that they are allowed to fish, land and dry their nets, and cure and transship their fish in the Canadian inshores.

13. The transshipping of cargoes by Americans has been carried on for many years and much to their advantage, as it allows them to make more trips for the fish during the season. This I think is principally done in the mackerel-fishery department.

14. The Americans, while cod fishing, buy large quantities of bait from the Canadians. They only take time to catch bait when they cannot buy it to advantage.

15. It would seriously injure the American fisheries if they were prevented from using our shores to buy bait and catch it.

16. It is considered a great benefit to the American fishermen that they have the privilege of procuring ice to preserve their fish, and to procure supplies such as trawl-lines and hooks, which they often lose; also to procure other articles and salt.

17. I never knew of an instance where our people fish in waters of the United States.

18. Could not say what value would accrue to American vessels by being allowed to procure bait and transship fish, but it must be very considerable, perhaps from \$400 to \$800 to every vessel making use of these privileges.

19. Cannot say that Americans being allowed to fish in our waters prevents our fishermen in their general operations, except that it affords larger and more valuable cargoes to be taken by the Americans than they would get were they deprived of our fisheries; and the catch being by them large, generally reduces the price of fish, which, of course, injures our fishermen indirectly.

The foregoing statement is true and correct to the best of my knowledge and belief.

ROBERT S. EAKINS, JR.

Sworn before me, at Yarmouth, in the county of Yarmouth, this 11th day of September, A. D. 1877.

ENOS GARDNER, J. P.

No. 302.

DOMINION OF CANADA,

Province of Prince Edward Island, Queen's County, to wit:

I, DANIEL ROSS, of North Rustico, in the said island and Dominion, fish-merchant, make oath and say:

1. That I reside at North Rustico, in Prince Edward Island, and have resided and carried on the fishery business there for the past eleven years, previously to which I had, for about six years, been engaged in the fishery business as an employé of Captain Marshall and others.

2. That my knowledge of the fishing business, as carried on at and near Rustico, covers a period of about twenty years.

3. That, during the past eleven years, while carrying on business for myself, I have owned each year four or five boats, and employed about thirty men each season.

4. That the average catch per season of my boats has been about one hundred barrels of mackerel each, and each boat takes a crew of about five men.

5. That I myself am a practical fisherman, and engage personally in the catching and curing as well as in the sale of the fish.

6. That the best mackerel-fishing is about one mile or one mile and a half from the coast-line of the shore, and very frequently the best catches are made much closer to the shore than that.

7. That the mackerel-fishing prosecuted in boats from the shore is chiefly within the limits of two miles. At times the schools of mackerel go farther out, extending as far as three miles and beyond that; but I have no hesitation in positively swearing that at least nine tenths (9-10ths) of the mackerel caught by the boat-fishermen are taken within the three-mile limit.

8. I have known good catches to be taken as much as five miles from shore in the fall of the year, but that is a very rare occurrence.

9. The American fishing-fleet are frequently, during the season, fishing off Rustico shore. The fleet follow the schools of mackerel, and consequently fish within the limits of three miles, but I have never fished on board any of them. When out fishing in my boats, however, I have found the fleet frequently all round us prosecuting the work and catching the fish. With an off-shore wind they approach as closely to the shore as they can with safety, and then throw bait and drift off, catching fish all the time and drawing the fish off shore to sea. Sometimes they would drift away from the school, and then beat up to windward and again drift over the school. This practice is adopted within the three-mile limits, and it is with reference to these limits alone I am now speaking.

10. My experience has been that the presence of the fishing fleet tends to break up the schools of mackerel, and our fishing is consequently injured. I mean the boat-fishing. The boat-fishers all look upon the arrival of the fleet among them as the signal for good fishing to cease. One cause is that too much bait is thrown from the vessels; and the boats which are anchored have to make way for the vessels which are drifting. It's universally looked upon among the shore-fishermen as a great injury and loss when the fleet arrives to fish among them.

11. In the month of May, from the opening of navigation till about the 10th of June, I prosecute with dories the herring-fishery. These herrings are all taken within about half a mile from the shore. My average catch of herrings per season would be a little over one hundred barrels. These herring are used by me for mackerel, and such is the custom all around the shores. If put up in barrels for sale they are worth about \$3 a barrel.

12. As soon as the herring fishery is over we fit up our large boats for the codfish and follow them. My catch is small, averaging per season from one to two hundred quintals. This would be the catch of my five boats. The cod-fishing lasts from one month to five weeks, or until the mackerel strike, and then we at once turn our attention to mackerel, which we follow the rest of the season.

DANIEL ROSS.

Sworn to at Charlottetown this 18th day of June, A. D., 1877, before me.

JAMES D. IRVING,
Commissioner, &c.

No. 303.

I, JOHN ARTEMAS MCLEOD, of Kensington, in Prince County, in Prince Edward Island, merchant and fish dealer, make oath and say:

1. That I have been engaged in fishing since the year 1867, both in vessels and boats, and know the fishing grounds from Boone Bay, New-

foundland, round this island, Cape Breton, New Brunswick shores, and up the St. Lawrence to Seven Islands Bay, and the Labrador shore, Newfoundland from Boone Bay to Cape Ray.

2. That, at the present time and for five years past, I have been engaged in fishing at New London Harbor, and there are about one hundred and fifty boats engaged in fishing out of that harbor and round the sand hills and beach, and the number is increasing fast and has doubled within the last year; and three years ago there were not more than thirty boats where the hundred and fifty are now. The boats are now larger, better built, and equipped, and, in fact, superior in every way to what they were three years ago. I should say, from my own actual knowledge as an owner and employer of boats, that the capital invested in the boat fishing has increased from fifteen to twenty fold in New London and neighborhood during the last three years. Where three years ago I could sell one hundred bushels of salt for curing fish, I can now sell five thousand bushels, and where I had five hundred dollars invested then I have ten thousand invested now. Three years ago there was only one fishing stage doing business on New London beach—doing business with three boats—and now there are eleven stages doing business on the beach, giving employment to about fifty boats and about two hundred and fifty men.

3. That the causes of the increase in the boat-fishing is that men found it paid, and that they could make money easier in that than in any other way; it also gives employment to the men at home, as there is a surplus population growing up who have no lands for farming, and who are able to find remunerative employment in boat-fishing, while they would not be able to get employment in other ways without leaving the country.

4. That the average crews of the boats, taking one with another, are about four men to each boat, clear of the stage and shore men. There is generally one stageman employed for every boat. Besides these, there are also coopers, cooks, and clerks, and sometimes inspectors employed, the number of whom vary, and it would be difficult to give an estimate of their number, although they are a good number.

5. That the boats, as a rule, catch about ten quintals of codfish before the mackerel come, and when the mackerel strike, the boats, taking small and large together, catch, on an average, one hundred barrels of mackerel each during the season, worth about \$1,000.

6. That nine-tenths of our mackerel are caught within one and one-half miles from the shore, and I may say the whole of them are caught within three miles of the shore. There may be an odd catch of mackerel got more than three miles from shore, but that does not often happen. The greater part of the codfish caught by hand-line are caught at from two to five miles from the shore, and all the codfish caught by the trawl or set lines are caught within three miles from the shore. There are no mackerel or codfish at all caught by the boats outside of the three-mile limit—that is, outside of a line drawn from points three miles off the headlands; while the herring are all caught close inshore, within two miles of the shore.

7. That I have fished about five years in the bay, in schooners. I fished in five British vessels in the bay, and in one American. I was master of four of the British vessels, and I was master of the American vessel after we cleared from Boston. An American had to clear her out of Boston.

8. That in the British vessels I have taken, on an average, three hundred barrels of mackerel each year.

9. That in the year 1870 I fished in the American schooner *Ida E. Davis*, of Harwich, in the United States, a schooner of about fifty tons burden, and carrying thirteen hands. In her we were out about two months, or about half or two-thirds of the mackerel season, and caught two hundred and thirty barrels of mackerel. Nine-tenths of these mackerel were caught within two miles of the shores of the Magdalen Islands and of this island. The Dominion cutters were round that year, and we risked the vessel and outfit in order to fish near the shore. The outfit belonged to me.

10. That it would not be worth while for vessels to fit out for the bay fishing if she could not fish within three miles of the shore. During the five years that I was fishing in schooners I never saw a schooner get a good catch more than three miles from the shore.

11. That I should put the average catch of the American schooners in the bay during the last ten years, at the least, at from three to four hundred barrels of mackerel each.

12. That the American schooners do harm to our boat-fishing, because, when they see the boats getting fish, they come in and drift down upon and lee-bow the boats, taking the fish away. They come inshore and drift down on the boats, and off the shore, throwing bait and carrying the fish off with them. The boats have often to get under way to avoid being run down by the schooners drifting. When the American fleet comes, fishermen look upon their arrival as the end of the good fishing. They break up the boat-fishing; they also do harm by cleaning their fish on the fishing grounds and throwing the offal overboard. Fish will not stay on the grounds when the offal has been thrown over.

13. That I have been engaged for seven years herring-fishing at the Magdalen Islands, Anticosti, Labrador, and Newfoundland, and the herring are all caught within one mile of the shore. That there is a large fleet of American fishing vessels getting herring at Magdalen Islands every year. They seine the herring and ship them off to the States and West Indies. At the Magdalen Islands and at Anticosti the Americans do a lot of trawling for halibut near the shore. At Labrador and Newfoundland the Americans have from one hundred and fifty to two hundred vessels fishing herring every year. These herring are all taken in the rivers and bays, and are sent to the States, to Sweden and to the West Indies. They use these herring for baiting their Georges and Bank fleets.

14. That we find that the mackerel strike in here from the northward and work up towards the south and along the shore, and towards the end of the season they work back. The Americans, and all experienced fishermen, know about the way the fish go, and are able to follow them up.

15. That the right of transshipment is a very valuable privilege to the Americans, as they save thereby about a fortnight each trip, which would amount to about a trip saved for the year. I have made a trip in the bay in eight days. They can also refit here as cheap or cheaper than they can at home, and in less time. By being able to transship they are able to watch the markets; they can send the fish in in time to get good prices when the prices are up. They can get the fish in quicker by steam than if they took them on themselves. The mackerel market is more fluctuating than any other market, and therefore it is a great advantage to be able to watch it. The fish also get worse by being kept in the hold of a vessel, as they have to be rehandled and repickled; they lose in weight, don't look so well, and they weigh less by being kept on board, and do not bring such good prices.

JOHN A. McLEOD.

Sworn to at Kensington, in Prince County, Prince Edward Island, this 14th day of July, A. D. 1877, before me.

THOMAS H. SIMS,

Justice of the Peace for Prince County.

No. 304.

I, JAMES McDONALD, of Chepstow, in King's County, Prince Edward Island, master-mariner, make oath and say :

1. That I have been engaged in fishing in one way or another ever since I was old enough to fish, in both boats and schooners; some of the schooners belonged to this Island, and the rest of them belonged to the United States. That I have been fishing in schooners for seventeen years, and have fished all round this island, from North Cape to East Point, and from Schimenac to St. Annes, on the Canada shore, and then to Seven Islands, the Labrador shore, up Bay Chaleur, Gaspé Bay, and all round the Magdalen Islands.

2. That, taking one year with another, since 1860, the average fleet of American fishermen in the bay would be fully five hundred sail; there were not so many last year, but this year they are coming down again. This year they are coming down seining. I was on board one this year, and they had seines for both deep water and for shallow.

3. That in the American schooners, in which I fished, we used to catch on an average five hundred barrels of mackerel each year. I have fished on both this shore and the American shore, and this is much better than the American fishing. That two-thirds of the fish caught in American and other schooners are caught within a mile and one-half from the shore; the best fishing is generally close into the shore. I was master of an American vessel about five years ago, and have sailed in Americans as fisherman at other times. I have been part of three seasons fishing on the American shores, and the other part fishing in the gulf, and there are more mackerel in the gulf round our shores than there are round the American shores.

4. That in the spring of the year vessels from all parts go to the Magdalen Islands to catch herring. I have been there often. It is the best herring fishery in the gulf. There are Americans, Nova Scotians, and others. There are, on an average, about two hundred sail of American vessels getting herring down there every year. The herring are all caught right close in on the beach. There are large catches made there. The Americans send a great part of these herrings to Sweden now, that being their market.

5. That in the fall of the year there are large numbers of vessels down in Newfoundland, at Boone Bay and other places, getting herring. There are about one hundred sail of American herring-fishermen which go down to the northward of Newfoundland every fall. In the winter about two hundred sail of Americans go down to Bay Fortune to get herring to freeze for the New York and other markets.

6. That the right of transshipment was of considerable advantage to the Americans, as they could send their fish on in the steamers, without having to go home in their own vessels with their fish, and they could in this way save much time. They save about four weeks in this way, which would be equal to a trip saved. They can also fit out here as cheap, or cheaper, than they can at home. The great advantage is, however, that it enables fishermen to watch and take advantage of the markets; they can find out what the prices are, and sell their fish "to arrive." In the schooners in which I fished, we several times trans-

shipped in Charlottetown, and sent the mackerel on by the Alhambra and other steamers. We never lost anything by sending the fish on in this way, and we made money by catching good prices.

JAMES McDONALD.

Sworn to at Souris, King's County, Prince Edward Island, this 21st day of July, A. D. 1877, before me, the words opposite my initials being first interlined or erased.

JAMES R. McLEAN, J. P.

No. 305.

I, DANIEL McCORMACK, of Black Bush, in Township Number Forty-five, in King's County, Prince Edward Island, fisherman, make oath and say:

1. That I have been engaged in fishing in schooners for ten or eleven years, in both Island and American schooners, and have fished all down this gulf, and for three years mackerel and cod fishing on the American coast, and I know the fishing-grounds well.

2. That the first five years I was down here in Americans we used to get from seven to nine hundred barrels of mackerel each season. I was in a small vessel. In 1871, or the year the cutters were around, I was down in the Annie Lewis, from Maine, and we only got one hundred and forty barrels; the reason we got so few was that the cutters kept us away from the shore, and the mackerel were on shore so we could not get good catches.

3. In the year 1874, I was down here part of the year on board the Clytie, and that season she got five hundred and forty barrels of mackerel. These fish were caught right in as close as we could get to the shore.

4. That I fished for some time on the American coast, and the seining there has destroyed the fishing. The seines both frighten the fish and kill large quantities of them. This year and last there have been no fish to be had there, they having been frightened away or destroyed by the seines. The seines take a large body of fish, both large and small, and they can only cure a small quantity of them, and the rest, including all the small fish, are thrown overboard and sink to the bottom. These fish rot at the bottom and poison the other fish or drive them away. I believe, and all practical fishermen believe, that this seining has been the cause of the breaking up and destroying of the American fisheries. Their fisheries are not now worth much for that reason. They are only now beginning to seine round here now. When we left their shores on the fourth of this month, the Americans were intending to come down here with their whole fleet, as they could not get any mackerel on their own grounds.

5. That the right to transship here is of great advantage to the Americans, as they save nearly three weeks, as a rule, by being able to land and transship here instead of having to take their fish home in their own vessels. This would be equal to another trip in the summer. They can also refit here cheaper than they can at home. I have known some of them come down here and fit out instead of doing so at home, on account of its being cheaper.

6. That, judging from my own experience of the two coasts, I am of opinion that it would not pay the island or Canadian vessels to fit out for fishing on the American shores.

DANIEL McCORMACK.

Sworn to at Souris, in King's County, Prince Edward Island, this 24th day of July, A. D. 1877, before me.

JAMES R. MACLEAN,
Justice of the Peace for King's County.

No. 306.

I, ANGUS B. McDONALD, of Souris, in King's County, in Prince Edward Island, fisherman and trader, make oath and say :

1. That I have been engaged in fishing out of the United States, off and on, for the last twelve years. I fished one summer in an island schooner, and traded one summer in an island vessel. The rest of the time I was in United States vessels. I have not much acquaintance with the boat-fishing. In the schooners I have fished around this island principally; also at the Magdalen Islands, and for herring at Newfoundland, and also up Bay Chaleur, and on the New Brunswick and Quebec coasts.

2. That there are large fleets of Americans, numbering from eight hundred to one thousand sail, engaged in the different cod fishing waters, and these all get their bait along the shores of the Dominion of Canada and Newfoundland, and without the bait got on these shores they could not go cod-fishing. They can only get bait on their own shores for a couple of months in the year, and that bait won't suit the cod-fishing on the Banks, as it consists of pogies, and they get spoilt before they get down to the Banks, so that now they must get herring for bait on our shores, or they cannot get codfish. From Gloucester, and other places in the United States, there are about four hundred sail in the winter season engaged in fishing herring at different parts of the Dominion and Newfoundland shores. They freeze these herring for bait and also for their city and country markets. From Bay of Islands and other parts of Newfoundland there are about fifty American vessels engaged in carrying herring in bulk. The vessels engaged in cod fishing use about four hundred barrels of herring each, during the run of a year, and these have all to come from our shores. These herring are all caught right in on the shore, all of them within a mile of the land. They are seined and netted. Large quantities of the herring are also sent away by the Americans from those shores to the Swedish and other foreign markets. I have been engaged myself for two winters in Boston, putting up Newfoundland herring for California and other States. At the present time and for years past the Bank cod fishing is entirely dependent on the herring fishery. I have fished a great deal on the Banks; at one time I fished on the Banks of Newfoundland and Nova Scotia for three years in succession, winter and summer, and as soon as our herring were done we had at once to start for the British Possessions for more, or our voyage would have been at an end.

3. That on an average each cod-fisherman takes 3,500 quintals of cod-fish in the year, or 350,000 pounds weight of pickled fish, all of which are caught with the herring, caught as mentioned in the last section. Even the codfish caught on the George's Banks are taken with herring caught on the British shores, as also the haddock caught for the Boston and other markets. I have been engaged at that business a great deal.

4. That I lived in both Boston and Gloucester, and fished out of both places, and boarded many of the American fishermen, and my own personal experience, and what I learnt from other practical fishermen with whom I came in contact, all pointed to just what I have said about the herring and cod fishing.

5. That many of the British fish are better than the American, such as the Strait salmon, and help to sell the American fish.

6. That I was engaged in mackerel fishing in American vessels for four years in the gulf; the first year I was out mackerel fishing was in 1865, on board the B. D. Haskins, of Gloucester, of about 60 tons, and carrying 15 men. We got within a few barrels of 800 barrels of mackerel in her that year. The greater part of these, I should say three-quarters at the least, were caught within two and three miles of the shore. Near the shore is always the best mackerel fishing.

7. That in 1866 I was out in the Helen M. Woodward, of Gloucester, of about 80 tons burden, and carrying about 18 hands. We caught 600 barrels of mackerel in her. These were all caught in close to shore; half of them were caught when we were sprung up to anchor at the Magdalen Islands, not having room to drift.

8. That in 1871 I was fishing in the gulf in the Adele, a Charlottetown vessel chartered by Americans. She was about 70 tons burden, and carried 16 hands. We took 700 barrels of mackerel in her, all of which were caught inshore; after the mackerel fishing was over she went to Newfoundland for the herring fishery.

9. That I was out part of the season of 1872 in the yacht Rambler, for two months and a half; she was an American, and carried nineteen hands. We caught four hundred and seventy barrels of mackerel in her. They were all caught right round the shore of this island and close inshore. We used to have to watch the cutters close that year.

10. That I was out in the River Dale, the fourth American vessel, in the gulf for about a month and one-half, after the 5th of September. We caught three hundred and twenty barrels of mackerel in her. She was about sixty-five tons burden and carried fifteen hands. Before coming in her that season I had made two trips to the Banks in the Yosemite, and in her we took over three hundred thousand pounds weight of codfish.

11. That when I was in the gulf there used to be a fleet of five hundred sail of American schooners fishing down here in the gulf, and nearly all their mackerel were caught close to the shore. It would not have been worth while to come down to the gulf at all for fish if they were not allowed to fish close to shore.

12. That the cutters interfered a great deal with the American fishing when I was out, as at sight of the cutter's smoke the schooners had to leave the fishing-grounds and clear out, sometimes losing the fish for a week on that account. The sailing-cutters were better than the steamers, as the smoke of the latter could be seen a long way off, and we could either salt our fish or throw them overboard before the cutters reached us.

13. That the American seiners are now seining down here already; they have left their own shore because the fish on their own coast have been destroyed or driven away by the seines. The seiners take a school of mackerel or other fish in their purse-seines and scoop as many of them on board as they can, and then the rest of the mackerel get smothered in the purse of the seine and sink, and the seiners have to let go their lines and empty the fish out, or lose their seines. These dead fish sink to the bottom and rot, and poison or drive away the other fish, whether mackerel or codfish. There are large quantities of herring killed in the same way. The opinion of fishermen, even the seiners themselves, is that the seining destroys the fishery.

14. The Americans clean their fish on board and throw the blood and gurry overboard, and that poisonous and kills the fish. That kills the

boat-fishing altogether; it does not hurt the schooners much, as they can run somewhere else for another school.

15. That the right of transshipment is a very valuable privilege to the Americans, as they can refit here as cheap or cheaper than they can at home, and they save on an average at least two weeks the trip by not having to run home, which would amount to another trip during the season. They also gain a great deal by being enabled to get their fish down quick to market, and being thereby able to watch and take advantage of good prices. When there is a large quantity of mackerel on board, the barrels get knocked about and get damaged so as to lose the pickle, and then the fish get rusted and spoiled so that they lose their quality and are sometimes entirely destroyed. The right of transshipment prevents this, as the fish can be taken out of the holds of the vessels and shipped away without getting damaged.

ANGUS B. McDONALD.

Sworn to at Souris, in King's County, in Prince Edward Island, this 24th day of July, A. D. 1877, before me, the words opposite my initials having been first interlined.

JAMES R. MACLEAN,
Justice of the Peace for King's County.

No. 307.

I, PETER McDONALD, of Souris, in King's County, in Prince Edward Island, master mariner, make oath and say:

1. That I have been four seasons fishing in British vessels, and four seasons in American schooners; always mackerel-fishing.

2. That I fished in the Mary Ellen, of this port, for part of one season, or about four weeks. We got about one hundred and eighty barrels of mackerel. She carried sixteen or seventeen hands.

3. That I fished about eight weeks one season in the Comus, of this port, and we got two hundred barrels of mackerel. She was about fifty tons burden, and carried fifteen hands.

4. That I fished in the Dominion, and was master of her one season, until August the 24th. We had then landed two hundred barrels of mackerel. She was sixty-nine tons burden and carried sixteen hands.

5. That I fished in the Florence Silver, of Charlottetown, the rest of the season that I was out in the Dominion. We got over two hundred barrels while I was in her. She was sixty tons.

6. That the first American vessel I fished in was the Abbie M. Heath. I fished about half the season in her. We got three hundred and twenty barrels of mackerel in her in that time. She was about sixty tons and carried sixteen hands.

7. That the next American schooner I fished in was the Oriental, a schooner of about fifty-five tons and carrying fourteen hands. We were out from September till the end of October in her in the same year that I was in the Abbie M. Heath, and in her in that time we caught three hundred and fifty barrels of mackerel.

8. That I sailed two seasons in the John Smith, and the first summer we got six hundred and fifty barrels, and the next season we got four hundred and fifty. We only made one trip the second season, and two the first, taking our fish home ourselves. She was about sixty tons and carried fifteen hands.

9. That I was out in 1871 in the Cadet, an American schooner, and got six hundred and fifty barrels. That was the year the cutters were round. Part of the time I was master of this schooner. We transhipped at Canso, and were in that way enabled to make three trips.

10. That three-quarters of all the fish caught by us in any of these vessels were caught within three miles of the shore. In the *Cadet* they were all caught close into shore; in fact, two of her trips were almost entirely caught while she was sprung up to anchor off Nail Pond and other places along the shore. The cutters disturbed us a great deal, otherwise we would have caught more fish. We had to watch the cutters close, and had continually to hoist sail and leave the grounds on their account.

11. That for my own part I would not fit out a vessel for fishing if I had not the privilege of fishing within three miles of the shore.

12. That the American schooners, to my own knowledge, interfere considerably with the boat-fishing, as when they see the boats getting fish they make up and lee-low them, taking away the fish. I have often seen that done, and have been in vessels myself that used to do that. That of course spoils the fishing for the boats.

13. That the Americans clean their mackerel on board their vessels and throw their gurry overboard. That spoils the boat-fishing, as the mackerel will not bite when there is any blood or gurry about. It does not hurt the schooners, as they work away from the gurry.

14. That the seining breaks up the schools of mackerel and frightens them off. That, in seining fish, large quantities of fish are taken that cannot be cured, or are too small for use, and these are lost entirely. I have seen large quantities of herring destroyed in this way. Seining is the destruction of the fisheries. This bay is now beginning to be full of seiners. Seven seiners have come into this harbor (*Souris*) this evening. They destroy the boat-fishing entirely.

15. That the right of transshipment is of considerable value to the Americans, as they can fit out here and in *Canso*, except for bait, cheaper and just as well as they can at home. They also save enough time in the summer when the fishing is good to make another trip. They can save about a fortnight each trip.

16. That there are considerable numbers of American vessels engaged every season at the *Magdalen Islands* seining herring. They get as many herring there, as a rule, as they want. These herring are salted or smoked, and numbers of them sent to the *West Indian* market.

17. That I have been on the *Newfoundland* coast when the American cod-fishermen came in to get bait and ice. They get large quantities of herring and ice there for the cod-fishing. At that season they could not get bait for the codfish anywhere except on the *Newfoundland* or *Nova Scotian* shores, so that the cod-fishing is dependent on the herring fishery. If the cod-fishermen could not get bait on the *British* coasts they could not get it anywhere else, and consequently could not get any codfish.

18. That in the spring of the year the codfish and mackerel come into the bay from the southward and strike the *Magdalens*, and then the mackerel go toward the *Bay Chaleur*, and then they strike up toward *Bank Bradley* and *North Cape*, and toward the middle of the summer they begin to work back again. The American fishermen understand the routes and customs of the fish, and know where to strike them at the different parts of the season. The mackerel season lasts from about the beginning of July till about the middle of October, here.

PETER McDONALD.

Sworn to at *Souris*, in *King's County*, in *Prince Edward Island*, this 24th day of July, A. D. 1877, before me, the words opposite my initials having been first interlined.

JAMES R. McLEAN,

Justice of the Peace for King's County.

I, JOHN MCINTYRE, of Fairfield, Township No. 47, in King's County, Prince Edward Island, master mariner, make oath and say:

1. That I have had experience in the mackerel-fishing for the last thirty-five years, and also in the cod-fishing, in both boats and schooners, in both island and American schooners, having fished all round the gulf fishing grounds, and also on the United States coasts, and I know the fishing grounds well.

2. That from East Point to Black Bush there are about one hundred boats, besides dories, engaged in fishing, that is in a distance of fifteen miles. The number is increasing fast. The number has doubled in the last year, and are still increasing; there are not yet enough boats for the crews.

3. The reason I give for the increase in the boat-fishing is, that fishing pays better than anything else, and it affords employment to people who can get no other employment. It is a ready-money business, and puts a lot of money into circulation.

4. That these boats take, on an average, crews of three men to a boat. The boats along here are small, as we have to beach the boats.

5. That the boats get as many herring on this shore as are required for bait through the season, and also for home use. They do not try for more than that. They might take quantities to export, if attention were given to the business. There are any quantities of them along the shore. These boats for the whole season, taking one season with another, take, on an average, one hundred quintals of codfish and hake to a boat; some years more and some years less. They also average fifty barrels of mackerel in the season to each boat. The herring are taken right inshore, within a couple of hundred yards of the shore; in the summer season they are taken as far as a mile and a half from the shore. The codfish are all taken at from half a mile to three miles from shore. All the mackerel here are taken inshore, within a mile of land.

6. That I was fishing round this island shores in the island schooners *Aeneas McIntyre* and in the *Emerald*. In the former of these I fished two years, and was master of her. We packed out the first year three hundred barrels of mackerel—we were only out six weeks that season. The second year we were also out six weeks, and got two hundred barrels. She was a schooner of sixty-two tons burden, and carried fourteen hands. In the *Emerald* we were out not more than five or six weeks, and we got about two hundred and sixty barrels of mackerel. These fish were all caught inshore, none of them more than three miles off.

7. That I fished for seven or eight seasons in American vessels, among which were the *Isabella*, Robert D. Rhodes, the P. H. Corliss, the *Horatio Babson*, Albert Clarence, B. S. Young, the *Lucinda*, and the *Native*.

8. That I was on board the *Isabella* the same year that I was in the *Emerald*, for ten days, and in that time we took two hundred and sixty barrels of mackerel. She carried thirteen men.

9. That I was in the Robert D. Rhodes for three weeks, and in that time we took two hundred and seventy barrels of mackerel. She was about sixty tons burden and carried thirteen hands.

10. That I was three weeks in the P. H. Corless, during which time we took two hundred and sixty barrels of mackerel. She was about fifty tons burden and carried twelve hands. She fished round this island, between here and North Cape.

11. That I was fishing in the Horatio Babson about four weeks, during which time we took two hundred barrels of mackerel. She was about seventy tons burden and carried fourteen or fifteen hands.

12. That in the Albert Clarence we fished about the Magdalen Islands. I was in her for five weeks. We took two hundred and eighty barrels of mackerel. She was a vessel of one hundred and ten tons burden and carried nineteen hands.

13. That I was out in 1873, the year of the big August storm, in the B. S. Young, for four weeks. We did very little in her, only taking one hundred barrels of mackerel. She was a vessel of eighty tons burden and carried seventeen hands.

14. That in the Lucinda and Native we fished principally on the American shore. We fished principally out ten or twelve miles from the coast and on the Banks. We did pretty well in the Native but not in the Lucinda.

15. That in all the vessels in which I fished in the gulf, we fished along the shore of the bend of this island, and at the Magdalens right inshore. From one to three miles off is the best fishing-ground.

16. That, including the whole gulf, the American fishing fleet for the past ten years has averaged good six hundred sail. I have counted over three hundred sail of them within sight at one time. They begin to come down here about the middle of June and stop till November, making two or three trips each season.

17. That the American fishermen, both cod and herring fishermen, clean their fish on the fishing-grounds and throw the offal overboard. That hurts the fish. It sickens and poisons the fish, and drives them away from the grounds.

18. That the Americans are now coming down on our shore seining. Some of them have already caught large quantities of fish by seining. Seining destroys the fisheries, as it scares the fish and kills a great many. That is what has injured the fishing on the American shores.

19. That, from what I know of both shores, it would not be worth while for Canadian or island fishermen to fit out for the American shores. It would not pay them to do so.

20. That the privilege of landing their fish, transshipping, and refitting is a great advantage to the Americans, as they lose so much time, I should say, on an average, three weeks each trip, by having to go home with their fish. They can also refit here as cheap as they can at home. The time saved during the season would be at least equal to a trip saved during the year. It is also a great advantage, as enabling them to watch and take advantage of the fish markets, which are very changeable.

21. That I believe the fish come into the gulf through Canso and by Cape North, and then strike for the Magdalen Islands, and from there they strike up towards the North Cape of this island, and towards the north shore generally. The American fishermen understand all about the routes of the fish and follow them up.

JOHN MCINTYRE.

Sworn to at Fairfield, in King's County, Prince Edward Island, this 26th day of July, A. D. 1877, before me, the words opposite my initials having been first interlined or erased.

JAMES McDONALD,
Justice of the Peace for Kings County.

No. 309.

I, MICHAEL McDONALD, of French River, in New London, in Queen's County, Prince Edward Island, fisherman, make oath and say :

1. That I have been engaged in fishing for about twenty-five years in both boats and schooners. I have been in island, New Brunswick, and American schooners, and I know the fishing grounds well, having fished up the Bay Chaleur, round this island, Cape Breton, the Magdalen Islands, and elsewhere.

2. That there are about one hundred and fifty boats fishing out of New London, the harbor and beach, and the number is increasing fast ; it is only about six years since the boats began to go in for fishing to any extent.

3. That the boats take on an average crews of four men each, besides the men employed at the stages, of whom there are a good number.

4. That the boats are now better built, better modeled, and better fitted out than they used to be ; people are paying more attention to the business than they did a few years ago ; they find that the fishing pays, and that is why people go in for it. There is a class of men now coming on who give their whole attention to fishing and attend to nothing else.

5. That I have been fishing in island vessels for the last eleven years. On board these vessels we used to get from two hundred and fifty to three hundred barrels of mackerel a trip, and we used to make on an average two trips a summer, making for the whole summer average catches of from five to six hundred barrels of mackerel.

6. That we caught about three-quarters of our fish close to shore, within three miles from land. The best fishing is from one mile and one-half to three miles from shore. We used to catch our fish up the Bay Chaleur, round the island coast, and Cape Breton.

7. That I sailed out of Portsmouth in New Hampshire, in the United States, for two years, one year on board the schooner Commonwealth, and the other year on board another schooner, both of which fished down in the bay. They did not do very well, as they did not get more than sixty barrels of mackerel each year. The reason for the smallness of their catch was that they were not well acquainted round the bay and fished too far from the land, catching most of their fish about nine miles off the shore. They would have done better in closer to the shore. At that time the cutters were about and the Americans were afraid of them ; some of their schooners were taken by the cutters those years.

8. That I was out one season in the schooner Water Lily, of Carlton, New Brunswick, and on board of her we did pretty well, getting over six hundred barrels of mackerel. She was of about seventy tons burden, and carried seventeen or eighteen hands. These six hundred barrels were nearly all caught around the island shore, mostly all at from one and one-half to three miles from shore.

9. That there have been large fleets of American vessels down in the gulf fishing every year ; I have seen as many as two hundred at one time in Port Hood, and that would be only a part of their fleet.

10. That the right to refit and transship the fish is a great advantage to the American fishermen down here in the gulf. They are able to land their fish, send them away in the steamers, and take in another outfit without losing much time. By being able to transship here and refit instead of going home with their fish, they save a fortnight each trip, and that right in the fishing season. That would amount to another trip in the course of the season as a general thing.

11. I do not think it would be worth while for the Americans to fit

out and come down here to fish unless they were allowed to fish within three miles of the shore.

MICHAEL McDONALD.

Sworn to at French River, in New London, Queen's County, Prince Edward Island, this 12th day of July, A. D. 1877, before me.

JOHN SHARPE.

Justice of the Peace.

No. 310.

I, THOMAS WALSH, of Souris, in King's County, Prince Edward Island, master ma iner, make oath and say :

1. That I have been connected with the fishing business, as a practical fisherman, since the year 1851; that is, twenty-six years, in both boats and vessels. I fished for seven years out of Gloucester, United States, in vessels; thirteen years I fished out of Rustico, in boats. I ran a fish-stage there and I am well acquainted with the fishing and the fishing grounds. I have fished down to Seven Islands, up the Bay Chaleur, at Anticosti, the Magdalen Islands, and in fact all over the gulf fishing grounds; and I fished for herring for two winters, in an American vessel, on the coast of Newfoundland.

2. That out of Rustico, New London, and round that side of the island, there is a vast increase and improvement in every way in the boat fishing. There are now twenty boats on that side engaged in fishing, to the one there was when I went there in 1862. The boats themselves have improved two hundred per cent.; they are better in every way. There is now a very large capital invested in the business there now, and it has all been put in during the past few years. These boats, taking large and small together, take crews of four men to each boat, besides stage-men and others employed on shore, who are a large number.

3. That these boats average about fifty quintals of codfish each, and about one hundred barrels of mackerel each, during the season, besides large quantities of herring. There are also plenty of hake in about six fathom of water, or about two miles from shore. The fish caught in Rustico are nearly all, in the spring, sent to Charlottetown and Summerside and the country while fresh, and there sold for good prices. Over there they catch as many herring as they want for mackerel bait, besides what they sell fresh and what they salt for the winter.

4. That the mackerel are nearly all caught from one to four miles from the shore. The greater part of the mackerel, fully two-thirds, are caught within three miles of the shore. The herring are all caught within a few hundred yards of the beach. In the spring the codfish are caught about two miles from land; as the season advances they go further off.

5. The reasons for the big increase in the boat fishing are, that people find there is money in the business, and consequently go into it. There is now also a large class of men whose number is constantly increasing, who have not got any land, and who depend entirely upon fishing. The boat fishing affords employment to these men, which they could not get in any other way. The business, in fact, keeps these men home; it is the support of their families.

6. That I was out for seven years in vessels belonging to the United States. We used to catch from three to eight hundred barrels of mackerel in the season; we would average good five hundred barrels during the season, taking one with another. These fish we caught nearly all together close to shore, within three miles of the land. The truth is,

there are not many caught more than three miles off, the good fishing is all near the shore. Here this week, the Americans are taking the mackerel with seines close to the shore. The mackerel are now schooling close in, and there are few or none more than three miles off. These seines do a great deal of harm, as they kill a great many small mackerel and other fish, which are thrown away, the seiners only taking the large mackerel. I saw twenty sail of Americans fishing in one bunch within about two miles of the land, on Thursday last, some of them seining. They were fishing between East Point and Saint Peters. The seining destroys the fisheries. The Americans are now scattered all down the coast; they are just now beginning to arrive. There will be a large fleet of them here this summer. There are already about forty sail of them along this shore, and they are coming all the time.

7. If the Americans were not allowed to fish in near the shore, they would not be able to get enough fish off shore to pay the expenses of the crew while out. They might get an odd catch, but that would be all, and they know this.

8. That when the cutters were about these coasts, they prevented the Americans fishing near the shore to a great extent, and consequently damaged their fishing. There were not enough cutters around to keep the vessels off altogether; they used to watch the cutters, and when the smoke was seen the schooners would clear out. I have known some of the Americans leave the bay and fish on their own shore, on account of the cutters.

9. That I fished one summer and four or five falls on the American shore, and there are more fish here than there are on the American shores, and the bay mackerel generally command a better price than the others. There is very poor hook-fishing on their shore; they can only seine.

10. That I have been four or five times down at the Magdalen Islands herring fishing, and there are often a hundred sail of Americans down there for herring. Their cod-fishermen get much of their bait at the Magdalenes, and they catch large quantities for the Swedish and other foreign markets. These herring are all seined close inshore. That is about the best paying branch of the fishing business.

11. That I was two winters at Fortune Bay, in Newfoundland, in American vessels, getting herring. The last winter I was there (1862) there were forty-two sail of Americans in Fortune Bay. In the fall they go up to the Bay of Islands. The last winter I was in Gloucester, there were over twenty sail from that port alone, down at Newfoundland after herring. In the winter time they freeze the herring and send them down to bait their George's fleet; and they also send them to their towns and cities to retail. That is a big business down there for the Americans.

12. The right of transshipment is a very great advantage. I look upon it as the greatest privilege the Americans have got. They can run in from the fishing grounds, land their fish and ship them away to market, without loss of time. They thus save, on an average, three weeks in the trip, and when they have to go home, it is generally right in the good fishing. It is also a great advantage to be able to refit here, as they can buy all their general stores here cheaper than at home.

The right of transshipment is also of great advantage to the Americans, as they are thereby enabled to keep themselves well posted up in the markets, and can send their fish in so as to catch good prices. This is a very great thing, as I have known a rise of three and four dollars a barrel in two days for mackerel. The mackerel market is a very variable one.

13. The mackerel, I believe, in the spring and first part of the summer strike in to the northward first, and then work up to the westward along by Bay Chaleur, the North Cape, and the bend of this island. The Americans and all skillful fishermen know about the habits of the fish, and follow them up.

THOMAS WALSH.

Sworn to at Souris, in King's County, Prince Edward Island, this 21st day of July, A. D. 1877, before me,

JAMES McDONALD,
Justice of Peace for King's County, Prince Edward Island.

No. 311.

I, DOMINICK DOVIANT, of North Rustico, in Prince Edward Island, farmer and fisherman, make oath and say:

1. That I have been engaged in fishing for over twenty years at North Rustico aforesaid, both in boats and schooners, but principally in boats, and am thoroughly acquainted with the fishing business and best grounds for catching fish.

2. That there are about eighty boats used in fishing out of North Rustico, with an average of from five to six men in each boat, besides one man to each boat engaged in attending to the stages and fish on shore.

3. That within the past ten years the number of boats has more than doubled, and are very much better in build and outfit, as well as larger.

4. That this increase is owing to more attention being paid to fishing now than was formerly—men now using it entirely as a means of livelihood, whereas some years ago they combined fishing with some other occupation.

5. That the average catch of each boat is, taken one year with another, from one hundred and forty to one hundred and fifty barrels of mackerel, and about fifteen quintals of codfish—the cod-fishing being only followed about one month before and after the mackerel.

6. That a small schooner of fifteen tons will catch about one hundred and eighty quintals of cod in a season.

7. That on this island there are very few schooners employed in either the cod or mackerel business, the American vessels principally doing that kind of fishing.

8. That the American fishing fleet around this island generally numbers about five hundred schooners, averaging a catch of between four and five hundred barrels of mackerel each in a season.

9. That the Americans generally fish between two and two and one-half miles from the shore, sometimes nearer. The great bulk of their mackerel being caught inside of three miles from the shore.

10. That invariably the American fishermen spoil the boat-fishing when they come near them, lee-bowing the boats and drawing the fish away, and after a catch throwing the offal overboard and sickening the fish so that none can be caught in the same place for a day or two after.

11. That the right of transshipment is valuable to the Americans, both on account of the time saved between landing the fish here and taking them home, and from the cheapness of fitting out here and the better opportunities of "catching" the market.

his
DOMINICK + DOVIANT.
mark

Sworn to at North Rustico, in Queen's County, Prince Edward Island, this 10th day of July, A. D. 1877, before me, having first been read over and fully explained to the said Dominick Doyiant.

WM. S. McNEILL,
J. P., Queen's County.

No. 312.

I, ROBERT CARSON, of North Rustico, in Queen's County, in Prince Edward Island, fisherman, make oath and say :

1. That I have been engaged in fishing in Rustico for about six years, and that my experience has been mostly in boat-fishing, and I am acquainted with the fishing-grounds on this side of the island.

2. That there are about eighty boats fishing out of North Rustico, averaging about five hands to each boat as crew, besides the men employed on shore at the stages curing the fish, the men on shore being about one man for each boat, so that each boat gives employment to about six men.

3. The boats catch, on an average, about one hundred barrels of mackerel to each boat, besides hake and codfish. About two miles from the shore is the best part for mackerel fishing. They are sometimes caught farther off.

4. The boats have doubled in number in the last five years. The boats themselves are much better than they were, both in hull and rigging, and they are still increasing in number and improving in outfit and in every respect.

5. That there is a class of men about here who are entirely devoted to fishing and go in for nothing else. The reason people go in for fishing about here is that it is found to pay, and it affords employment to men who otherwise would be unemployed.

6. There are large numbers of Americans fishing off this coast every year. They often fish close inshore. Fishermen look upon the coming of the Americans as an injury to the fishing; they draw off the fish. They come inshore, throw bait, and drift off, taking the fish with them. Their coming is looked upon as an injury to the boat-fishing. They dress their fish on the fishing-ground and throw the offal overboard, thus causing great injury to the fishing. Fishermen never want to see them around.

7. The right of transshipment is invaluable to the Americans, as they are thereby enabled to come in and refit, and ship away their fish without loss of time, so that they are nearly able to make another trip while they would have been away carrying their fish home. They are also enabled to take advantage of the markets; if there is a good price for mackerel, the schooners can come in, land their fish, and ship them away without loss of time.

8. The Americans generally fish at from two to three miles from the shore, although at odd times they fish farther off.

9. The fish generally come down from the Magdalen Islands to our shore, and the Americans follow the fish.

ROBERT CARSON.

Sworn to at North Rustico, Queen's County, Prince Edward Island, this 10th day of July, A. D. 1877, before me.

WM. S. McNEILL,
J. P., Queen's County.

No. 313.

I, CHARLES MCEACHAN, of Township Number Forty-six, North Side, justice of the peace, and manager of fishing stage, make oath and say:

1. That I have been engaged in boat-fishing on the north side of this part of the island for the last twenty-four years, and am well acquainted with the fishing on that side.

2. That from the North Lake to Saint Margarets, on the same side, a distance of fourteen miles, there are, this year, at least sixty boats engaged in fishing. The boats are increasing in number and improving. The number of boats has trebled in the last three years. The reasons that I would give are that there is now good encouragement given to men to go in for fishing; the business pays now; and many men who formerly went to the States to fish on the American shores found they could not do so well there and returned here, and many of them have taken to boat-fishing. The fishing employs a great many people who could not get employment, and could scarcely exist in any other way. The fishery is a ready-money business, and puts a lot of cash in circulation. The boat-fishing for the past two years, when the Americans were not so numerous on the shore as they were before and as they were this year, has been better than it was when they were around.

3. That the boats, in the distance mentioned above, take from three to five hands each as crew; they would average four. That does not include the men who are employed on shore, who are a considerable number. These boats get herring enough for mackerel bait and for home use every year; if attention were directed to that branch, there could be as many herring taken as could be required. The average catches of the boats are at least sixty quintals to the boat; some boats double that number and others do not get so many. A great many more codfish might be taken, only the owners of a large number of the boats are farmers as well as fishermen, and only fish when they have time from their farming, and that lowers the average all round. The boats also take at least thirty-five barrels of mackerel for the season, and the average is greatly lessened by the same reason given for the codfish, that the men farm as well as fish.

4. That nearly all these fish are taken at from one to three miles of the shore; along the shore is the best fishing ground.

5. That there are nearly every season over five hundred sail of American fishing schooners fishing in the gulf. We can see them passing along by where we are fishing. I have some days seen two hundred of them passing by in a day. These vessels fish very much close in to the shore.

6. That the Americans do a lot of harm to our boat-fishing by coming in shore and lee-bowing the boats, and taking the fish away from the latter. They come in, throw bait near the shore, and drift off, drawing the mackerel after them. We always look upon the coming of the Americans as the end of the good fishing. They clean large quantities of fish on the grounds and throw the offal overboard; this gluts and poisons the fish so that they won't bite, and our boat-fishing is thereby spoiled.

7. The year the cutters were about they kept the American schooners off to a great extent, and we were very sorry when the cutters were taken away.

8. That the American seiners are coming round here this year: one of them took a hundred barrels at one throw of the seine, off my farm shore the other day, and they kill more fish than they use. The fish

that are killed in this way are thrown out and rot in the water, and that goes still further to ruin the fishing. Fishermen believe, by what they see, that this seining will destroy the fishing in a short time.

CHAS. McEACHAN.

Sworn to at Souris, in Kings County, in Prince Edward Island, this 24th day of July, A. D. 1877, before me.

JAMES R. MACLEAN,
Justice of the Peace for Kings County.

No. 314.

I, DANIEL C. McLEAN, of Black Bush, Township Number Forty-five, in King's County, in Prince Edward Island, fisherman, make oath and say:

1. That I have been engaged in fishing in both boats and schooners; in both island and American schooners. I have fished in both in the gulf and on the American shore.

2. That this year there are more boats in the fishing on our side than there were ever before, and the number is increasing very fast. The reason for the increase is that the fish are becoming more valuable, and it is a better business than anything else to engage in.

3. The boats along our side take crews, on an average, of three men each. These boats get in the spring all the herring they want for bait in the other fisheries during the season. These boats last year averaged fully forty quintal of codfish each, but they were only at codfish for three weeks last season. They also get large quantities of mackerel. This year promises to be a good year. I have not seen as many mackerel in the bay for the last twenty years as there are now.

4. That three-quarters of the fish caught by the boats are taken within three miles of the land. Along the shore is the best fishing. In the fall of the year they are farther off.

5. That I was out one trip in the island schooner E. Hodgson. We did very well in her, but I forget the exact amount. The fish were all taken within three miles of the shore.

6. That I was out one trip one season, at the end of the season, in the Queen of the Cape, an American schooner. We got about one hundred and eighty barrels in her. We were only out in her a short time.

7. That I was out part of one season, in fact for a trip of ten days, in the Ida D. Spoford, in the gulf. We got over two hundred barrels in that time. She carried fourteen hands.

8. That I fished all the early part of one season in the Queen of the Cape on the American shore. The fish there were small and not worth catching. The fishing was so bad that we left and came down to the gulf, where we did well.

9. That the American schooners are now going in for seining here, and that destroys the fishing on the coast. It scares and kills the fish. They purse the mackerel up in the seines and the fish smother there, and quantities of them are destroyed in this way that cannot be cured, and are thrown into the water again. This is the ruin of the fisheries. There are a lot of seiners down here now.

DANIEL C. McLEAN.

Sworn to at Souris, in King's County, Prince Edward Island, this 25th day of July, A. D. 1877, before me.

JAMES R. McLEAN,
Justice of the Peace for King's County.

No. 315.

I, DANIEL MCINTYRE, of Black Bush, Township Number Forty four, in King's County, Prince Edward Island, master mariner, make oath and say :

1. That I have been engaged in fishing since 1859 ; in vessels all the time except two years. Five years I fished in American schooners, and the rest of the time in island vessels. I fished all around the Gulf of Saint Lawrence, in the herring-fishery, on the Newfoundland shores, and one fall on the American coast mackerel-fishing.

2. That there are now about seventy-five boats engaged in fishing between this and the East Point, a distance of about eighteen miles. The number has increased very much this year ; last year there were about forty or fifty boats. These boats take crews of from three to five men each. They get a large quantity of both codfish and mackerel, and what herring they want for bait.

3. That the mackerel are caught by the boats at within two and two and one-half miles from the shore ; the codfish are farther off.

4. That I have fished in schooners belonging to this island for twelve years. In the P. Æneas McIntyre I fished one season after August, and we caught three hundred and forty barrels of mackerel. She carried sixteen hands. The next year I was in her for four weeks, when we got one hundred and sixty barrels. The same year I was in the Jane for five days, when we got one hundred and ten barrels. The year following I was in the Mary Ellen for about six weeks ; we took one hundred and seventy barrels ; she carried sixteen hands. After that I was in the Amateur for about six weeks in one season ; we took a hundred and thirty barrels ; that was a bad year. After her I was in the Wilhe, and we took one hundred and seventy barrels. The next year I was one of the crew of the Dominion ; in her we brought in about four hundred and fifty barrels of mackerel. She was a schooner of sixty-four tons burden. The year following I was in the Tyro, and we got four hundred and seven barrels. She was forty-one tons burden, and carried fourteen hands ; that was six years ago. After that I was in the Florence Silver, and we took four hundred and twenty barrels of mackerel. She was sixty-eight tons burden, and carried sixteen hands. After her I fished in the Lion ; in her we got four hundred and thirty barrels of mackerel. She was thirty-eight tons burden, and carried fifteen hands.

5. That these fish, caught in the island vessels, were caught along the island shore, the Bay Chaleur, at the Magdalens, and in the gulf generally. The greater part of the fish were taken within three miles of the shore. Along shore is the best fishing ground.

6. That I fished one season in the Alfaretta, an American vessel—we took two hundred and fifty barrels of mackerel ; that was in 1859. After her, I was in the Daniel McPhee, another American, and we got one hundred and ninety barrels. After her, I was in the Daniel Webster for one trip of five weeks ; we caught two hundred and fifty barrels of mackerel ; she was seventy-four tons, and carried fifteen hands. After her, I was in the Nanadaha one season, and we got two hundred and fifty barrels ; she carried fifteen hands. After her, I was in the Grape Shot for the season, when we took in eight hundred and forty barrels of mackerel ; she was about sixty-five tons, and carried sixteen hands ; she made three trips, landing twice in the Gut of Canso.

7. The most of these mackerel were caught within three miles of the shore, a good many up the Bay Chaleur and at the Magdalens. I do

not believe that it would be worth while to fit out for fishing in the gulf if fishermen were not allowed to fish near the shore.

8. That one fall I fished in the Isaac Walter, on the American coast, but we did nothing.

9. That the Americans hurt the shore fishing; as they come in, heave a lot of bait, and drift off, dragging the fish after them. They also clean their fish on the grounds, and throw the gurry overboard, and that injures the fishing; that frightens the fish away from the grounds, and they won't bite while the gurry is about; it sickens the fish and poisons them.

10. That the right to land here, transship, and refit is a great advantage to the American schooners, as they can save about two weeks and a half each trip right in the heart of the season, which I should think equal to a trip saved in the summer. They refit here just as cheap as they can at home.

11. That I was two falls down at Boone Bay and Bay of Islands herring fishing; the fish are netted there. The Americans go down there for herring, which they send out to the southward. The Fortune Bay herring they freeze for bait and for market. The bulk of the bait for their cod-fishing vessels comes from the shores of these provinces; in fact, their cod fishery is dependent on the herring fisheries of these provinces.

12. That the Americans are now beginning to seine in this bay, and that destroys the fishing. The seiners frighten the fish and break up the schools, so that line-fishermen cannot get fish. Large quantities of fish are also killed by the seines. Large quantities of herring are taken in the seines, and these are killed and all thrown away. Besides herring, they kill large quantities of other fish and mackerel, which cannot be cured and are thrown away. These fish, sinking to the bottom, rot there, and further injure the fishing. There are, I should say, fifteen or twenty seiners down here already, and they are only just beginning to arrive.

13. That there is a large fleet of American fishing-vessels down here every year. Last year there were not more than one hundred sail; this year a large fleet is reported to be coming.

14. That the mackerel, in the spring, come into the gulf from the southward, and work from the south towards the north. Skillful fishermen know about the courses the fish take and follow them.

DANIEL MCINTYRE.

Sworn to at Black Bush, in King's County, in Prince Edward Island, this 26th day of July, A. D. 1877, before me.

JAMES MACDONALD,

Justice of the Peace for King's County.

No. 316.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, THOMAS MILNER, of Parker's Cove, in the county of Annapolis, fisherman, make oath and say as follows:

1. I have been acquainted with the fisheries on the shore of this county for forty years. I have taken pollack, hake, and haddock, and large quantities of herring; about 2,000 barrels of herring being taken in this vicinity every year.

2. Twenty-five American vessels come along the coast of this county

for the same kinds of fish as we take. They get their bate inshore within a half a mile of the shore by setting nets in which they take herring. With this bait they fish off to twenty miles and take codfish, haddock, hake, and pollack, and early in the spring large quantities of halibut by trawling, which is injurious to our fisheries.

3. These American vessels average from sixty to sixty-five tons registered tonnage, and carry from eight to fifteen men each. They take codfish, haddock, hake, pollack, halibut, and herring, and fish all along the coast of this county. They take from four to twelve hundred quintals each. They take about 100 barrels of herring to each vessel for bait.

4. These Americans get all their herring within half a mile of the shore for bait, and without this bait they could not carry on the fishing in this vicinity. The most of them bring their ice with them in which they preserve bait.

5. These American vessels come here in April to trawl halibut, and remain on our coast until August, included.

6. The Americans which come on our coast bring their own supplies. They obtain bait which enables them to carry on the fishing in this vicinity. They have to get a fresh supply of bait every week.

7. If the Americans were excluded from our coast it would be a great benefit to our fishermen, as their supply of bait would not be interfered with, and fish would be more plentiful.

8. The right of fishing on the coasts of the United States is of no benefit to the fishermen of this county, as I have never known or heard of any of them fishing there while large numbers of Americans come on to our coast to fish.

THOMAS MILNER.

Sworn to at Parker's Cove, in the county of Annapolis, this 4th day of September, A. D. 1877, before me.

JOHN ANTHONY,

Justice of the Peace, acting in and for the County of Annapolis.

No. 317.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, JAMES W. COUSINS, of Digby Town, in the county of Digby, fisherman, make oath and say as follows :

1. I have been engaged in fishing for eighteen years now past, and am still so engaged. I am at present in charge of a vessel of thirty-two tons register, and manned by ten men, and can take five hundred quintals of fish in one cargo.

2. We catch bait in Annapolis Basin and in the Bay of Fundy, all inshore, within three miles of the shore. American vessels get bait upon the same grounds, by setting their nets and by buying; mostly by setting nets.

3. We take codfish, haddock, hake, and pollack, halibut and herring; the latter for bait. We take this fish from close inshore to off fifteen miles. We get the most within five miles of the shore, and I have this year, up to this date, taken in my vessel nine hundred quintals.

4. The Americans take fish the same as we do on the same grounds. Twenty sail at least of American vessels fish on the same grounds as we do.

5. These American vessels are from ten to thirty tons each, and carry

from five to ten hands; the average would be from seven to eight men to each vessel. They are fitted out to take on an average at least three hundred quintals of fish, and more often make full fares than fall short.

6. These American vessels are a great injury to us, as they catch the bait, carry off the fish, and throw their gurry overboard on the grounds. By gurry, I mean the offal of the fish.

7. American purse-seiners come into this harbor, on Annapolis Basin; this harbor is on Annapolis Basin. I have seen two American purse-seiners in this harbor this summer.

JAMES W. COUSINS.

Sworn to at Digby, in the county of Digby, this 3d day of September, A. D., 1877, before me.

JOHN DAKIN, J. P.

No. 318.

I, DAVID SWAIN, of Port Clyde, in the county of Shelburne, trader, make oath and say as follows:

1. I have been engaged and am acquainted with the fisheries on the coasts of Nova Scotia, New Brunswick, Quebec, and Prince Edward Island, for over fifty years, and have been engaged in catching, curing, and trading in fish in this province and on Labrador.

2. I have dealt chiefly in codfish and mackerel.

3. The American schooners which run into this harbor average about sixty tons and carry about twelve men each. They take codfish, halibut, and mackerel.

4. These American vessels fish for cod, halibut, and mackerel; for mackerel principally in the North Bay. Fifteen hundred quintals is a small average take for these vessels. The value of their cargo is about nine thousand dollars.

5. I cannot say how much they take within three miles of the shore except mackerel, which is mostly all taken within three miles of the land.

6. These American vessels fish along our coast from May till November, inclusive, and some all winter.

7. In this vicinity from twenty to thirty American vessels come and go yearly in order to procure men, bait, and small stores.

8. It is of very great value to Americans to come into our ports to land, dry nets, cure and repack fish, transship cargo, obtain bait and supplies, and is worth 25 per cent. of their whole catch—including the herring and mackerel fisheries in the North Bay is worth from 70 to 80 per cent.

9. It would be a great benefit to our fishermen if they could carry on the inshore fisheries without local competition on the part of the Americans. This summer inshore boat-fishermen have complained to me of Americans trawling on their grounds. If the Americans were excluded, it would be worth forty per cent. to our fishermen on their present catch.

10. The privileges ceded to the Americans by the Treaty of Washington is worth twenty-five per cent. of their entire catch.

11. The privilege of fishing in American waters I consider of no value to Canadian fishermen, as our own grounds are better and nearer.

12. From 1854 to 1864 I never knew nor heard of any Nova Scotian vessels fishing in American waters.

DAVID SWAIN.

Sworn to at Clyde, in the county of Shelburne, this 28th day of August, A. D., 1877, before me.

WM. HY. COFFIN, J. P.

No. 319.

In the matter of the Fisheries Commission at Halifax, under the Treaty of Washington.

I, ROBERT HENRY BOLMAN, of Sand Point, in the county of Shelburne, make oath and say as follows:

1. I have been engaged in the fisheries for twelve years. I have bought codfish from American vessels and sold them herring for bait. I am well acquainted with the inshore fisheries in Shelburne County.

2. During the last three years I have supplied American fishermen with bait and ice—about 100 during the three years now passed. Last year I have given orders to American vessels to get 175 tons; the year before 275 tons. The American vessels take from 15 to 40 barrels of bait to each vessel. Each American vessel takes from three to five tons at each baiting. They bring a considerable quantity of their ice from home, and if the weather is bad at home and they have a long passage, it is more profitable to buy it here.

3. The American vessels which are baited here fish on the Western Bank, on LaHave, Roseway, and Brown's Banks, and must have fresh bait if they trawl, which the greater part of them do. These vessels take fish along the coast in this county within three miles of the shore, during the last two years in particular. Last summer and this, American schooners have fished inshore—within two miles of the shore. These vessels bring in here cusk and small fish, which enables them to procure funds for ice and bait instead of drawing on their owners, and they are enabled to go home with a cargo of large and valuable fish. Formerly the Americans threw their cusk and small fish overboard. The American vessels which run in here for bait require to be baited three or four times during the trip, and unless they got this bait in Canadian ports they could not carry on successfully the fishing on the Banks along this coast. Last year and this the number of small American vessels have increased in our inshore waters. These American vessels carry about twelve men each, and go home with from four to six hundred quintals of fish each.

ROBERT HENRY BOLMAN.

Sworn to at Sand Point, in the county of Shelburne, this — day of August, A. D. 1877, before me.

JOHN PURNEY, J. P.



APPENDIX H.

OFFICIAL CORRESPONDENCE FROM THE YEARS 1827 TO 1872, INCLUSIVE, SHOWING THE ENCROACHMENTS OF UNITED STATES FISHERMEN IN BRITISH NORTH AMERICAN WATERS SINCE THE CONCLUSION OF THE CONVENTION OF 1818.

No. 1.

[Extract of dispatch from the Right Hon. Earl of Dalhousie to the Right Hon. Earl Bathurst, dated Quebec, June 8, 1827.]

"The nomination of the superintendent of the fisheries in Gaspé, obliges me to ask of your lordship some more accurate information on that subject than I have been able to obtain here, even from the officers of the navy whom I have had any opportunity of conversing with upon it, and who have been employed in cruising in the Gulf of Saint Lawrence, for the protection of our fisheries.

"Your lordship knows that repeated complaints have been made by those occupied in the fisheries along the shores of Gaspé and Bay Chaleurs, that they have been for the last ten years wholly overpowered by the American fishing-vessels which resort there annually; an average of 1,500 sail pass at Canso into the Gulf of Saint Lawrence, spreading early in the season along the Labrador shore, high up in the salmon fisheries, near the rivers of the Mingan and Seven Islands, then to the Magdalen Islands and Cape Breton shore, and latterly coming down upon the Gaspé shore, Orphan Bank, and north shore of Prince Edward Island, completely driving the British fishermen out of their way."

No. 2.

HER MAJESTY'S SHIP ALLIGATOR,
Halifax, November 9, 1827.

SIR: In compliance with your orders, I have the honor to inform you that the night after I left this place I anchored off Canso light-house, and the next day visited the light-house and the Fox Islands. The Fox Islands I found had been perfectly quiet for some time, and the broils which had taken place seem to have been very much exaggerated, and only to have been such as must always occur in a place where 3,000 men (for that, I understand, is the number congregated there in the fishing season) of different nations, English, Irish, and French, meet together without any legal authority to control them. The priest who has lately been sent there seems to have great influence, and will, I have no doubt, be the means of preserving tranquillity. I met the Chebucto as I was coming away, and Captain Potter informed me that they had been perfectly quiet since he had been there. The light-house, which I visited the same day, appears to be kept in perfect order, and very clean, by

the persons who are entrusted with it; but the light is very bad, and cannot, I should think, be seen far enough, as it consists only of lamps with eight common cotton wicks in each, without any reflectors. There is no register kept at the light-house of the American fishing-vessels which enter the Gulf of Saint Lawrence that can be depended upon, as many pass in the night, and the greater number of those which go to the Labrador go round Cape North; but from the best accounts which I could get there have been from 1,600 to 1,700 in the gulf this year, with crews averaging from seven to ten men. They nearly monopolize the Labrador coast, and have the greater part of the Bradelle and Orphan Banks. From Causo I proceeded round Cape Breton, the winds being always westerly, to the Magdalen Islands, calling at Sydney on the way. At the Magdalen Islands I heard great complaints that the French and American fishermen had taken all the best fish away this year, very much to the prejudice of the revenue, although to the advantage of the lawless inhabitants, who thereby receive French and American goods without paying any duty, as the subcollector has no power of enforcing his demands, which are openly set at defiance, and his own life threatened, whenever he attempts to execute his duty. The civil law in these islands is in perfect abeyance, as there is only one magistrate whose authority is doubtful, as he has, since receiving his warrant, changed his religion to the Roman Catholic, and has been suspended. The only remedy that I can see for these evils would be the having a small armed vessel frequently to visit the islands during the summer. Nearly 400 Americans have dried their fish on the Magdalen Islands this year, paying 10 per cent. to the inhabitants, chiefly in goods, without duty; and an American man-of-war schooner anchored in the roadstead for two or three days, for the purpose of inspecting their fishermen. I learnt here that the fishing season is entirely over on the 28th September, that being the day to which all the fishermen are hired, and none continuing above a week after it. I therefore intended to have gone to Pictou from the islands, but meeting with strong contrary winds and currents, I went to Antigonish, where the court was sitting, and from thence to Port Hood, from whence, after remaining a few days, and finding the season was too far advanced for it to be useful or prudent for me to remain longer in the gulf, I went to Pictou for letters and came direct thence to this place.

I have, &c.,

W. P. CANNING.

Rear-Admiral Sir C. OGLE, *Bart.*

No. 3.

TO THE KING'S MOST EXCELLENT MAJESTY.

The joint address of Your Majesty's Council and House of Assembly for the Provinces of Nova Scotia, now in General Assembly convened.

May it please Your Majesty:

We, Your Majesty's Council and House of Assembly of this, Your Majesty's loyal Province of Nova Scotia, now convened in general assembly, beg leave most respectfully to submit to the consideration of

Your Majesty's Government the great importance of preserving unimpaired the rights and privileges belonging to Your Majesty's subjects engaged in the fisheries upon the coasts of this province, and also to prevent foreigners from interfering or participating in such rights and privileges. That by the statute of the Imperial Parliament passed in the 59th year of the reign of our late most Gracious Sovereign George the Third, power was given to His Majesty, by and with the advice of his Privy Council, by an order or orders in council, to be from time to time made for that purpose, to make such regulations and give such directions as may be necessary to prevent fishermen of the United States from taking, drying, or curing fish in the bays or harbors of His Majesty's dominions in America, or in any other manner whatever abusing the privileges by the treaty and act of the Imperial Parliament reserved to them.

That as no such order in council has passed, it may be presumed that it may be extremely difficult for Your Majesty's council to submit such order to Your Majesty's consideration as may be best adapted to meet the exigencies of the case in all Your Majesty's dominions in America. That Your Majesty's subjects in this province have experienced great inconvenience and loss in this branch of industry by foreign interference, and the revenue is injuriously affected by the illicit trade carried on by vessels ostensibly engaged in the fisheries, who hover on the coast, and, in many cases, combine trade with the fisheries; a traffic prejudicial alike to the revenue, the importation of British manufactures, the honest trader, and the political and moral sentiments, habits, and manners of the people.

To prevent the continuance and extension of such evils the legislature of this Your Majesty's loyal province of Nova Scotia have embodied in an act such regulations and restrictions as they conceive will most effectually prevent such interference in the fishery and the illicit trade connected with it, and thereby secure the rights and privileges recognized by the treaty, and intended to be guarded by the statute. This course has become the more necessary as the act of the Imperial Parliament contemplates the further regulation of the fisheries by some such means, of which all persons concerned will be bound to take notice. Many of the irregularities complained of may have taken place from the want of such regulations. There is no intention of intimating that the Government of the United States approve of or sanction any interference with a branch of the fishery which they have expressly relinquished.

We therefore most earnestly but respectfully pray that Your Majesty will be pleased to give your royal assent to the said act, and, by an order of Your Majesty in council, declare the said act to contain the rules, regulations, and restrictions respecting the fisheries for the coasts, bays, creeks, and harbors of Nova Scotia.

In council, 22d February, 1836.

BRENTON HALLIBURTON,
President of His Majesty's Council.

In the house of assembly, 24th February, 1836.

S. G. W. ARCHIBALD,
Speaker of the Assembly.

No. 4.

TO THE QUEEN'S MOST EXCELLENT MAJESTY.

The humble address of the legislative council and house of assembly of
Nova Scotia in Provincial Parliament.

May it please Your Majesty:

The council and house of assembly of your loyal Province of Nova Scotia humbly approach Your Majesty with their complaints against the citizens of the United States of America, who violate with impunity the provisions of treaties existing between the two nations, to the injury and detriment of the inhabitants of this colony.

Your council and assembly humbly refer Your Majesty to the convention made in the year 1818, whereby the American Government obtained for the citizens of that country privileges not ceded to them by the treaty of 1783, and under the effect of which these provinces have languished ever since, and the operation of which is fully explained in the annexed report and documents.

The commercial eagerness which characterizes the people of the United States of America, aided by the spirit of their government, has for years caused them to transgress the bounds defined by treaty, and exercise rights over the fisheries of these colonies not ceded even by the unfortunate convention alluded to. Their fishermen, in violation of that convention, enter the gulfs, bays, harbors, creeks, narrow seas, and waters of these colonies; they land on the shores of Prince Edward and the Magdalen Islands, and by force, and aided by superior numbers, drive British fishermen from Banks and fishing grounds solely and exclusively British, and by carrying on an unlawful intercourse with needy and unprotected fishermen, induce them to violate all the laws of trade, and introduce feelings and opinions destructive to the principles of a well-intentioned but secluded and uninformed portion of Your Majesty's subjects, thus demoralizing and contaminating the ignorant but loyal inhabitants along our extensive shores, and most essentially injuring the manufacturers of the United Kingdom, the merchants and ship-owners of the empire, and the revenue of this and the other provinces.

Your council and assembly solicit your royal attention to the address of this province to His late Majesty George the Fourth (hereto annexed) as prophetic of the effects of the Convention of 1818, and urge Your Majesty to mark the fulfillment of its anticipations in the report of 1837. Aware of the solicitude of Your Majesty for the happiness and welfare of your faithful North American subjects, your council and assembly humbly pray encouragement and protection of their commerce and fishery, and that Your Majesty will order small armed vessels to cruise on the coasts of these colonies to prevent such encroachments, or direct two steamboats to be added to the fleet on this station, to resort to the various fishing-grounds during the season. And the legislature will cause depots of fuel to be provided for them at the provincial expense. Confident that Your Majesty, considering the foregoing facts, and marking the character of the times, will adhere to the enlightened policy which has distinguished your illustrious house, and extend to your faithful and loyal subjects of Nova Scotia that protection of their interests which they ask as Britons, and which may prove consistent with the claims of other portions of Your Majesty's extensive dominions.

In council, 22d March, 1838.

J. B. ROBIE,
President of the Legislative Council,

In the house of assembly, 20th March, 1838.

S. G. W. ARCHIBALD,
Speaker of the Assembly,

No. 5.

Proceedings of the general assembly of Nova Scotia upon the convention concluded between His Majesty and the United States of America, published by order of both houses in general session, at Halifax, in April, 1819.

HALIFAX, 88 :

Robert Molleson Cutler, of Guysborough, in the county of Guysborough, esquire, a member of Her Majesty's legislative council for the Province of Nova Scotia, maketh oath and sayeth: That he had been engaged upward of thirty years in commerce and the fisheries of Canso, Fox Island, and Crow Harbor, in Chedabucto Bay, where, until within the last four or five years, immense quantities of mackerel were annually caught and taken in seines and nets by persons resorting thither from various parts of this and the neighboring provinces; that since the citizens of the United States have prosecuted the mackerel fisheries to any extent in the Gulf of St. Lawrence, those of Chedabucto Bay, aforesaid, have every year gradually decreased, and are now so seriously injured that they are no longer considered by merchant or fisherman an object of profitable pursuit; that being apprehensive the almost entire failure of the fisheries in the said bay would compel many of the fishermen, resident on its shores, to abandon in utter despair an occupation no longer likely to yield them adequate support, and cause them to remove with their families to a foreign land; and being desirous of ascertaining the practicability of prosecuting from the bay the mackerel fisheries upon the system on which they are now carried on by American subjects in British waters, this deponent, by way of experiment and to stimulate others to follow his example, sailed from Guysborough, aforesaid, in the month of August last, in a vessel equipped and manned by him for the purpose, on a mackerel voyage to the Gulf of St. Lawrence aforesaid, where he remained about five weeks fishing, sometimes on the shores of Cape Breton and Prince Edward Island, within the distance of three miles, and at other times within a half a mile of the shore; that he frequently observed American vessels in numbers of from fifty to seventy along the shores of Cape Breton and Prince Edward Island, many of which were fishing within the distance of three miles therefrom; that it is the almost invariable practice of the American fishermen to make a harbor every Saturday night and remain at anchor until the Monday morning following; that during his said voyage this deponent frequently anchored in the harbors of Prince Edward Island and under Marguerite Island, distant about four miles from the shore, and at Port Hood, in the Island of Cape Breton, in company with from forty to sixty American fishing vessels, which seemed to enter the said harbors as freely and with as little restraint as the vessels of British subjects; that this deponent is now perfectly satisfied from actual observation that the manner and system on which the citizens of the United States prosecute the mackerel fishery on the shores of the Gulf of St. Lawrence, in numbers almost incredible, must be in the highest degree injurious to the net and seine fishery carried on by British fishermen on the eastern shores of Nova Scotia: and he

hesitates not to declare it as his deliberate opinion that if prompt and effectual measures be not soon adopted to prevent encroachments upon our coasts, and the open violation of existing treaties by the fishermen of the United States, the hitherto important and valuable net and seine fishery of Chedabucto Bay, and of Nova Scotia generally, already so much diminished, will ere long be entirely destroyed.

R. M. CUTLER.

Sworn to at Halifax this 23d March, 1838.

JOHN LIDDELL, J. P.

No. 6.

GOVERNMENT HOUSE,
Fredericton, January 27, 1838.

SIR: With reference to the subject of your excellency's communication of the 10th instant, and the document by which it was accompanied, I have the honor herewith to transmit a copy of information upon oath from two most respectable individuals of this province, detailing in very clear and forcible terms the unwarrantable proceedings of American fishing-vessels within our waters on the northeast coast of this province.

These informations, resting on no equivocal authority, I should feel obliged by your excellency taking an opportunity of communicating to his excellency the vice-admiral commanding in chief Her Majesty's naval forces on the North American station.

I have, &c.,

J. HARVEY.

His Excellency Maj. Gen. Sir COLIN CAMPBELL, K. C. B.,

&c., &c.

[Inclosure in No. 6.]

NEW BRUNSWICK:

Duncan Hay, of Carraquette, in the county of Gloucester, in the Province of New Brunswick, British North America, yeoman, and Charles Coughlan, of the same place, yeoman, make oath and state as follows:

First, the said Duncan Hay deposed and saith that he has lived in Carraquette, in the Bay of Chaleur, in the Gulf of Saint Lawrence, for three years last past, and that during that period and for three years before was personally employed in carrying on the fishery at Point Miscou, being the outermost point of the island of Miscou, a fishing station very much resorted to by the inhabitants on both sides the Bay des Chaleurs as well as other British settlements both in this Province of New Brunswick as well as Nova Scotia, embracing a line of coast of nearly 100 miles; that for the whole of the period of time above mentioned the said fishing-grounds have been during the fishing-season frequented by great numbers of American fishermen, who are in the constant habit of coming within the line marked out by the treaty subsisting between the British and American Governments, and in so doing interfering with the British fishermen, to their very great detriment and the prevention of their taking fish, the destruction in a great measure of the beneficial use of the said fishery by British subjects, and dispersing the shoals of fish. That this deponent has witnessed every year, from the commencement and during the continuance of the fishing season, in the months of June and July, American fishing-vessels, varying in numbers from 30, 40, 50, and sometimes 100 at a time, actively employed in taking fish, and, not content with so doing in the deep waters, they approach within the small bays and close in with the shore, as well for catching fish as for the purpose of taking bait, without which latter the fishing cannot be carried on, and in so doing frequently directly interfere with the inhabitants and British fishermen, and, in some instances, being the most numerous, and, therefore, not to be restrained or prevented, take such bait out of the nets and seines used by the said inhabitants for taking such bait, and also by the number of vessels extended in continuous lines in positions that break up and turn the shoals of fish from entering the different bays and places of resort to which the

said bait and other fish have been and are in the habit of resorting. That to protect the British subjects in the right of fishing it will require more than an occasional visit of an armed vessel—some permanent establishment during the whole of the fishing-season, in the opinion of the deponent, will be necessary to do away with the interference and annoyance above detailed.

And the deponent, Charles Coughlan, for himself saith, that he has resided at Carraquette aforesaid, thirty miles from Point Miscou aforesaid, about nine years last past, and has also been employed in carrying on a fishing establishment, and that the foregoing statement as relates to the interference of the American fishermen in taking fish, and the other interruptions mentioned by the deponent, Duncan Hay, are correct and true, and that he perfectly coincides with him as to the means of preventing the same.

DUNCAN HAY.
CHAS. COUGHLAN.

Sworn this 24th day of January, 1838, before me, at Fredericton, in the county of York.

THOMAS C. LEE, J. P.

Duncan Hay and Charles Coughlan, the deponents named in the accompanying affidavits, further by way of general observations relating to the subject of the interference of the American fishermen, would particularly mention the mode in which they carry on their fishing, which they, these informants, consider to have a very injurious effect on the fishery in general.

In the first place, they, the said American fishermen, are in the constant habit, after catching the fish, of bringing their vessels in very near to the shore, frequently as near as they will ride, and in that situation clean their fish and throw overboard the garbage, which at that season of the year shortly becomes putrid, and has a direct tendency to drive away the shoals of fish there resorting.

Secondly, they are in the habit, when their vessels are surrounded by a shoal or shoals of mackerel, of cutting up with machines calculated for that purpose, quantities of fish into small pieces, and then scattering the same about to keep the shoals about their vessels, and at the same time throwing into the water quantities of dry salt, which the fish seize together with the small cut up bait, which is supposed to stupefy or have such effect as to detain them, and thereby the fishermen are enabled to take fish in great quantities and break up the shoals. They also throw into the water, together with the said small bait and dry salt, quantities of Indian meal, which renders the surface turbid. This course being pursued by a large number of vessels stationed generally across the entrance of the bays and other places into which the mackerel are in the habit of resorting, necessarily turns their course and prevents the British fishermen from taking the same into those bays, coves, and inlets, where they have always, before the American fishermen were in the habit of frequenting the said fishing-grounds, been accustomed to take fish.

DUNCAN HAY.
CHAS. COUGHLAN.

FREDERICTON, *January 24, 1838.*

No. 7.

[Extract from the Royal Gazette, vol. 8, dated Charlottetown, Prince Edward Island Tuesday, June 26, 1838.]

On the evening of Sunday, the 17th instant, the bark Sir Archibald Campbell, Tait, from Maramichi for Sunderland, in a thick fog, and the sea running high, struck on the reef off the North Cape of this island, and is a complete wreck. The crew got on shore the same night. Next morning a boat put off for the wreck for the purpose of saving what they could. An American fishing-vessel was seen leaving the wreck; and on the boat's crew arriving on board, they found that the cabin had been rummaged by the Americans, the lockers broken open, and that all the provisions, and every article they could lay their hands upon in the cabin, carried off, except two flags. Not contented with this, they had also carried off the hawsers, two new sails, part of the rigging, and the jolly boat. Another boat had in the mean time put off from the shore after the American, and demanded the bark's jolly-boat, which

they observed her to have in tow. On their demanding it, they were told to be off or they would sink them. The shore boat was close enough to discern the name of the schooner, and the port she belonged to.

Captain Tait and his crew were busily employed landing all they could from the wreck, but as there were no less than forty-eight sail of American fishermen close in upon the reef, he was under continual apprehension that some of their crews would land and plunder what he had saved.

It is certainly high time that some means were adopted to put an end to such depredations on our coasts, and for the protection of the fisheries from the Americans. A few days ago there were a number of them in the harbor of Richmond Bay carrying on their avocation.

No. 8.

Copy of a dispatch from Lieutenant-Governor Sir J. Harvey to Lord Glenelg.

GOVERNMENT HOUSE,
Fredericton, March 19, 1839.

My LORD: I have the honor herewith to transmit to your lordship copy of a report of the House of Assembly of this province, relative to the encroachments which continue to be made on the fishing grounds of this province. A copy of this report will also be transmitted by me to the naval commander-in-chief upon this station, and to Her Majesty's minister at Washington.

I have, &c.,

J. HARVEY.

The Right Hon. LORD GLENELG, &c., &c., &c.

[Inclosure in No. 8.]

HOUSE OF ASSEMBLY,
March 18, 1839.

The select committee, to whom was referred that part of the petition of Wilford Fisher, James Chaffey, J. Snell, esquires, and 181 others, of the parishes of Grand Manan, West Isles, and Campo Bello, in the county of Charlotte, relating to the encroachments which continue to be made on the fishing grounds of this province by vessels of the neighboring states, report:

That the affidavits of ten credible persons, residents of Grand Manan, sundry certificates of the overseers of the fisheries of the same island, with a mass of other evidence, have been laid before your committee, and had most deliberate consideration from them. That it manifestly appears that the aggressions so often complained of, and so frequently brought under the notice of the legislature of this province, not only have not ceased, but have actually increased, to a degree which calls loudly for the immediate interposition of government.

It distinctly appears, from the affidavits and certificates, that from ten to twenty sail of American fishing-vessels are almost continually to be found at anchor, catching fish, within one mile of the shores of Grand Manan, in audacious violation of the rights of the people of this province, and in open and avowed defiance of any force which the inhabitants could possibly bring against them. That those persons, restrained by no fishery regulations, either British or American, carry on their lawless practices in a most reckless manner, to the great and lasting injury of the fisheries; and that they do not hesitate to have recourse to violence in repelling the fishermen of Grand Manan from their own fishing-grounds, by means of which, and of many other outrages, this valuable source of provincial wealth is almost wholly wrested from its natural possessors.

It has been satisfactorily shown to your committee that the overseers of the fisheries of Grand Manan, in the due execution of their public duty, have frequently endeavored

to prevent these proceedings, but in vain; but they have been threatened with corporal violence by the American fishermen, who on several occasions have attempted to capture and carry them off to the States.

From undoubted information laid before your committee it is manifest that American aggressions of this nature are not confined to the southern shores of the province. The Bay of Chaleur and the adjacent harbors are annually infested by American fishing vessels, carrying on an illicit trade with the inhabitants and committing such depredations upon the fisheries as ought no longer to be endured.

Your committee earnestly submit the subject to the grave consideration of the house, and cannot forbear expressing their hope that the wisdom of the house may suggest such prompt measures as will immediately remove the grievances complained of.

W. F. W. OWEN.
JAMES BROWN, JUN.
W. EVET.

COMMITTEE-ROOM, March 16, 1839.

This report being accepted by the house—

Resolved, That an humble address be presented to his excellency the lieutenant-governor, communicating the foregoing report and requesting that his excellency will be pleased to take such measures thereon as to him shall seem expedient.

CHAS. P. WITMORE, *Clerk*.

No. 9.

TO THE QUEEN'S MOST EXCELLENT MAJESTY.

Most Gracious Sovereign:

We, Your Majesty's dutiful and loyal subjects, the legislative council and assembly of Prince Edward Island, in general assembly convened, humbly approach the Throne, with sentiments of the most sincere and affectionate attachment to Your Majesty's person and government.

We beg leave to state to Your Majesty that the subject of encroachments upon the shores of this island by American fishermen has been brought to our notice by his excellency the lieutenant-governor, in his opening speech at the commencement of the present session; that we have given this important subject due consideration; and from information that we have collected, we find that the Americans are constantly in the habit of fishing within the prescribed distance, as defined by the convention of the year one thousand eight hundred and eighteen, of running into our harbors, bays, and creeks, whenever it suits their convenience, to procure bait, and of thus seizing the opportunity to carry on a contraband trade with the inhabitants of this island.

That the ship of war graciously sent by Your Majesty every season, for the purpose of cruising round our coast to protect the fisheries, is ineffective, inasmuch as it cruises to visit the several fishing stations around the shores of the Gulf of St. Lawrence, for which they are better adapted than for the shallow waters around this island, and the American fishermen take advantage of the absence of the ship of war to continue their encroachments.

That an armed steamer, drawing but little water, would, in the opinion of the council and assembly, be much more effective in protecting our fisheries from the encroachments of the Americans than a ship of war, as the steamer could take advantage of the light winds and calms so frequent during the fishing season, and could run into the smaller bays, rivers, and creeks of our shores, and seize American vessels, if the crews thereof are acting contrary to and in violation of all the terms of the Convention.

We, therefore, humbly pray that Your Majesty will be graciously

pleased to order that an armed steamer, drawing but little water, be placed upon this station every season, to protect our fisheries from the encroachments of the Americans.

And, as in duty bound, we shall ever pray.

Council chamber, 24th March, 1843.

House of assembly, 24th March, 1843.

R. HODSON, *President*.

JOSEPH POPE, *Speaker*.

No. 10.

[Extract of dispatch from Commander Cochran to Vice-Admiral Seymour, dated Her Majesty's sloop *Sappho*, Halifax, October 3, 1851.]

I have the honor to inform you that on leaving Pictou I proceeded to visit, in accordance with your orders, the north shore of Prince Edward Island. Off the eastern shore and about East Point, from fifty to sixty schooners were catching mackerel. Five of these were English, the rest Americans. One of these, being within the limits, I ordered off.

St. Peters.—A small schooner named the *Experiment*, fitted out by Sir Alexander Bannerman to test the value of the cod fisheries to the northward of the island, was at anchor in the bay. She had not been very successful, being too small to ride on the grounds in blowing weather.

Warned off four American schooners hove to within the limits, though not actually fishing. Passed thirty sail of schooners at night.

Richmond Harbor.—Four schooners were absent, engaged in the fisheries.

New London.—Two schooners engaged in the mackerel fisheries.

Casumpeque.—Two schooners belong here, engaged in fishing, and a few boats. Forty English and 120 American schooners have been seen at anchor in this harbor at one time, engaged in mackerel fishing.

Miscou Island.—The only firms residing are those of Mr. Botillier and Mr. Alexander. They have caught 2,000 quintals of cod, which is considered a good average. The firm of Mr. Boutillier think of abandoning the island, as the fishing is falling off very much. This island, once famous for the quantity of bait that used to strike in, is now comparatively deserted. I was informed that forty American schooners had been fishing close off the beach a few days previous, catching No. 1 mackerel.

Paspébiac.—Mr. Robins and Mr. Boutillier have large establishments. Five vessels of Mr. Robins's were at anchor, representing 1,056 tons. The catch of fish had averaged 50 quintals per boat, which was considered very good. The number of boats twenty-five. Complaints of the American fishermen catching mackerel close to the shores, and of their attracting and drifting off shoals of fish. Thirty or forty are said to have been fishing close to the beach.

New Carlisle, I was informed, has eighteen boats.

Port Daniel.—Though open to the southeast, is said to be a very safe anchorage during the summer. Winds from that quarter are said not to blow home. The cod-fishing has been very successful, the boats, of which there are thirty, having taken four or five quintals per day. The fishing-grounds are about five miles from the land.

Pierre.—The quantity of cod taken is very large, averaging per boat

(of which there are 120) ninety quintals. Complaints of American fishermen fishing close to the shore and attracting mackerel to sea. One schooner took seventy and another sixty barrels in one day close to the beach. Mr. Robins and Mr. Botillier have the largest establishments here.

Mal Bay.—Made two American vessels weigh and proceed to sea, who were at anchor without any good reason. In consequence of a strong current was unable to reach St. Peter's before dusk, and being a dangerous place to visit at that hour made sail for Gaspé Bay. St. Peter's has eighty-two boats and the cod fishery has been successful.

Gaspé Bay.—Owns nearly 200 boats, of which Douglas Town claims thirty. The average catch has been fifty quintals per boat, which was considered good. M. Botillier, Janvein, Wilson, and Prichard have establishments in Gaspé Harbor. Three English schooners engaged in the mackerel fishery, which they prosecuted by seines, arrived from the Bay of Seven Islands, Labrador, in which harbor they had seen as many as forty American schooners engaged in mackerel fishery; almost all had left in consequence of the fish not having struck in. It was stated that the Americans had set fire to the woods, and made themselves very troublesome. Five schooners belong here engaged in the whale trade, and have been very successful, and three schooners in the cod fishery.

At *Grand Greve* as many as fifty American schooners have been fishing close to the beach for mackerel.

REMARKS.

The curious circumstance that about 1,000 sail of American schooners find it very remunerative to pursue the herring and mackerel fisheries on the shores of our northern provinces, while the inhabitants scarcely take any, does indeed appear strange, and apparently is to be accounted for by the fact that the colonists are wanting in capital and energy. The Jersey merchants, who may be said to possess the whole labor market, do not turn their attention to these branches. The business of the Jersey houses is generally, I believe, with one exception, carried on by agents; these persons receive instructions from their employers to devote their whole time and energy to the catching and curing of cod. Such constant attention to one subject appears at least to engender a perfect apathy respecting other branches of their trade. They are all aware, I believe fully aware, of the advantages to be derived from catching the herring and mackerel, when these come in shoals within a few yards of their doors, but still nothing is done.

Commercial relations of long standing, never having engaged in the trade before, possible want of the knowledge of the markets, and the alleged want of skill among the fishermen of the method of catching and curing these fish, together with the twenty per cent. duty on English fish in America, may tend to induce the Jersey houses not to enter into these branches. Added to all these reasons the capital of the principals is, I am informed, in most instances small. It will probably be difficult to find about the Bay of Chaleurs and Gaspé any fishermen not engaged by some one of the numerous Jersey houses; and it may be said that a new branch of industry would much interfere with the cod fishery, but so lucrative a trade as the herring and mackerel one would prove would enable higher wages to be given than are done for cod. In fact I believe that very small, if any, wages are given at all, the money due to the fisherman for his summer labor being absorbed in food and clothing for himself and family, repairs of boats and fishing gear, almost

always deeply in debt in the spring, or at any rate sufficiently so to insure his labor for the ensuing summer, and so more persons would be induced to resort here the summer season.

The want of knowledge of the method of catching and curing could be easily remedied. A little practice, with the aid of some government inspectors well conversant with the whole operation, together with the method of curing herrings in the Dutch fashion, who should inspect and brand the barrels, would soon remedy the evil complained of, and give a character and value to their fish. The fishermen, when asked why they do not catch mackerel, replied that they have not the means, and that the Americans have some secret of catching the fish, which consists, I am told, in throwing overboard chopped and crushed bait, thereby attracting the fish around their vessel, when they are ready with plenty of hands and good gear to take advantage of the opportunity.

The American schooners engaged in fishing during the summer in the gulf are, I am told, in the winter employed in the coasting trade, and some fish off the Banks near New York. This employment during the winter is an advantage which the vessels of our colonies would not have, but this is counterbalanced by having the fish so abundant along the shores at all points as to render the necessity of employment of vessels devoted to that purpose almost unnecessary.

About 600 American schooners passed through the Gut of Canso this year in the prosecution of the mackerel fishing, many of which have returned with two or three cargoes. There are three qualities of mackerel—those taken in the spring are of an inferior quality, called No. 3; later in the year No. 2, and in the fall No. 1.

It is said that from 60 to 70 more schooners this year than last, many of them new, are in the gulf this season.

No. 11.

[Extract of a dispatch from Sir A. Baunerman to Earl Grey, dated Prince Edward Island, November 15, 1851.]

6. To the United States Government the fisheries are of vast importance, and they will become more so in this part of North America when the New Brunswick Railway runs, as is proposed, near to Shediac, within a few hours' sail of the harbor of Bedouque in this island, from which the produce of the fisheries would be sent to Boston in a very short space of time, leaving the fishing-vessels to prosecute their occupation, instead of carrying home their cargoes, as they frequently do, and returning to the fishing-grounds in the same season, performing a voyage of 1,200 to 1,500 miles.

7. Your lordship will have some idea of the magnitude of the American fleet of fishermen when I inform you that about the latter end of September 250 United States schooners came into Malpeque, on the north side of this island. They are beautifully equipped, averaging from 60 to 110 tons, and their crews consist of from ten to twelve men each. About 1,500 of them landed at Prince Town and attended an agricultural show there. They behaved as well and peaceably as so many sailors congregated together could be expected to do; but this will not always be the case where brandy and rum are to be had cheap. They are under no control, and, as they daily infringe the treaty by fishing close to the shore, the United States Government cannot be ex-

pected to send one of their cruisers to enforce it, and otherwise to keep the peace among them. Should any disturbance hereafter take place, which, from many accidental causes, is not improbable, the lieutenant-governor of this colony would be placed in a delicate position with the subjects of a foreign yet friendly power.

No. 12.

TO THE QUEEN'S MOST EXCELLENT MAJESTY.

We, Your Majesty's dutiful and loyal subjects, the legislative council and assembly of Prince Edward Island, in Colonial Parliament assembled, humbly beg leave to renew our assurances of devoted loyalty and attachment to Your Majesty's person and government; and we beg again to approach the foot of the throne on the subject of our joint address, forwarded to Great Britain so long ago as the year 1849, praying for an abrogation or relaxation of the Treaty of 1818 with the United States Government, as concerns the fisheries surrounding this island. This address, as we were informed by Your Majesty's colonial minister, was most graciously received by Your Majesty, and, we were told, would receive the earnest consideration of Your Majesty's Government.

We beg to state that this subject becomes of daily increasing moment.

Your Majesty's representative, the lieutenant-governor of this island, in the late fishing season had the opportunity of personally witnessing hundreds of fishing vessels, belonging to the United States, fishing on our shores and frequenting our harbors, in direct contravention of the treaty of 1818.

His excellency has not the means of preventing an intrusion so detrimental to our best interests; the single ship of war of Your Majesty's fleet usually employed in this duty being inadequate to the extensive service required of her.

The citizens of the United States have an advantage over the subjects of Your Majesty in this island, which prevents all successful competition, as our own fish caught on our own shores by strangers are carried into their ports by themselves, whereas we are excluded by high protective duties.

The legislature of this island passed an act in the twelfth year of Your Majesty's reign which offered to reciprocate with the United States in the interchange of certain enumerated articles, notwithstanding which offers our fish and agricultural produce, for which latter there is an extensive demand in the Northern States of the American Union, remain subject to high duties.

And although the British navigation laws have been so relaxed that foreign-built vessels owned by British subjects may obtain British registries, a concession from which the citizens of the United States have very recently derived great advantages by the sale of their vessels stranded on the shores of this island during the disastrous gale of last autumn, no reciprocal advantage is offered to us, which, if obtained, would be of immense importance to the builders of ships and fishing vessels in this island.

Her Majesty's subjects are desirous to continue to cultivate the good will of the citizens of the United States by every reasonable concession, and with a due consideration of the value of the intercourse which, on

a basis of reciprocal advantage, might be established. They presume that the immense importance to the United States of an uninterrupted right of fishing on the shores of this island as a basis of treaty ought to insure for them valuable concessions; and if this be not possible, that the fisheries ought to be scrupulously maintained in the spirit of the treaty of 1818.

We most humbly pray that Your Majesty will be most graciously pleased to take the premises into your favorable consideration, and cause to be removed the restrictions of the treaty of 1818, prohibiting American citizens from fishing within certain prescribed limits on the shores of this island, provided the American Government admit articles the growth or production of this island into the United States duty-free, in accordance with the act of the general assembly of this island passed in the twelfth year of Your Majesty's reign, entitled "An act to authorize free trade with the United States of America in certain enumerated articles, including fish, also vessels built on this island to American registry."

And as in duty bound we shall ever pray.

R. HOGDSON,
President.

COUNCIL CHAMBER, *February 9, 1852.*

ALEXANDER RAE,
Speaker.

HOUSE OF ASSEMBLY, *February 9, 1852.*

No. 13.

Copy of a dispatch from Lieutenant-Governor Sir A. Bannerman to Earl Grey.

GOVERNMENT HOUSE, *February 12, 1852.*

MY LORD: In reference to the accompanying dispatch, I beg leave to direct your lordship's attention to a colonial act, 6th Viet., cap. 14, page 698 of the volume of statutes which I recently forwarded to your lordship. The act to which I refer is one which received the royal assent on the 3d September, 1844, and an order was on the same day made by Her Majesty in council, declaring "that its clauses and provisions should be the rules, regulations, and restrictions, respecting the fisheries on the coasts, bays, creeks, or harbors of the Island of Prince Edward."

2. By the provisions of this act officers of customs and excise, sheriffs, magistrates, and any person holding a commission from the lieutenant-governor, are authorized to board, search, &c., vessels within three marine miles of the coast; "and if found fishing, preparing to fish, or to have been fishing" within that distance, such vessels, with their cargoes, to be seized, and forfeited, &c., &c.

3. The provisions of this act have never yet been enforced, but should the fishery question remain much longer unsettled, in all probability attempts will be made to seize American vessels and such attempts will be resisted, which may lead to collisions, the consequences of which are not easily to be foreseen.

4. To guard against any such occurrences, I think it would be very desirable for Her Majesty's Government to order a steamer to be stationed here from the 1st June to the 1st October, the commander of

which, in addition to his instructions from the admiralty, would be fortified with a commission from the lieutenant-governor of this island enabling him, in terms of the act and order in council, to legally enforce their provisions within the limits prescribed by the act; for I consider that the powers which the statute vests in custom house officers, &c., &c., in so far as the fisheries are concerned, to be very dangerous ones, and such as ought only to be intrusted to those who have the means as well as the authority to enforce them.

5. I understand that there is nothing more likely to urge the American Government to an amicable settlement of this long-vexed question than an enforcement of the treaty around this island, where their fishermen catch most of the mackerel sent to the United States, and where, last autumn, one of Her Majesty's steamships could in a few hours have seized and got legally condemned property amounting to upward of £50,000.

6. Notification of the royal assent to the act alluded to and order in council were published in the Royal Gazette of this island on the 8th October, 1844; but I am ignorant whether the United States Government are aware of its provisions; and it will be for your lordship to determine if any intimation should be made to that government on this important subject.

7. I trust from what I have already stated that Her Majesty's Government will perceive the peculiar position in which this colony is placed in regard to the fisheries, so very different from the adjoining provinces. I apprehend that the lieutenant-governor, irrespective of any other interests, is entitled to carry that law into effect, applicable to this island, which has received the sanction of the sovereign, and that the legislature may modify, relax, or abrogate such law on conditions subject to the approval of Her Majesty's Government. The importance of the subject will, I trust, be my excuse for troubling your lordship at such length.

I have, &c.,

A. BANNERMAN,
Lieut. Governor.

The Right Hon. EARL GREY, &c., &c.

No. 14.

PRINCE TOWN, *July 2, 1852.*

SIR: On the 1st of July there was a number of American fishing-schooners in this harbor, and I boarded them to collect anchorage duty from them; they would not pay, and positively affirmed that they would not comply with the law; and I had not force enough to take so many vessels, each of them comprising a crew of from twelve to fifteen men, and I could say well equipped for a defense; and I beg to state that we have neither ammunition or any weapons of defense that if all our population would turn out, and the men will not turn out to my assistance; they state that the law does not compel them. I issued a *capias* for one of the captains, but they only made fun of us. Hoping that your excellency will adopt some means to make them comply with the laws; if not, it will be useless for me to demand it at all; when two or three hundred sail comes in, the same as there was last year, they will do as

they please; they state that if the lights were up they would pay, but not till then.

I have, &c.,

WILLIAM H. M'KAY,
Harbor Master.

Hon. J. WARBURTON,
Colonial Secretary

No. 15.

COURT OF VICE-ADMIRALTY AT HALIFAX.

A return of the number of American vessels seized for violation of the convention made between the Government of Great Britain and the United States of America, in the year 1818, and prosecuted in this court, with the dates of their seizure and condemnation or restoration.

Name of vessel.	Date of seizure.	Condemnat'n or restoration.	Name of vessel.	Date of seizure.	Condemnat'n or restoration.
Hero	June 1, 1838	Jan. 28, 1839	Director	Sept. 18, 1840	Dec. 8, 1840
Combene	Nov. 1, 1838	Jan. 28, 1839	Ocean	Oct. 1, 1840	Dec. 8, 1840
Shetland	June 4, 1839	July 8, 1839	Pioneer	May 6, 1841	Aug. 18, 1841
Java	May —, 1839	Aug. 5, 1839	Two Friends	May 20, 1841	Restored.
Independence	May 26, 1839	Aug. 5, 1839	Mars	Sept. 20, 1841	Nov. 2, 1841
Magniola	May 25, 1839	Aug. 5, 1839	Egret	Sept. 20, 1841	Nov. 2, 1841
Hart	May —, 1839	Aug. 5, 1839	Warrior	Oct. 13, 1841	Nov. 9, 1841
Batelle	June —, 1839	July 8, 1839	Hope	Oct. 13, 1841	Restored.
Hyder Ally	June 14, 1839	July 8, 1839	May Flower	Oct. 13, 1841	Dec. 7, 1841
Eliza	June 14, 1839	July 8, 1839	Washington	May 7, 1843	Aug. 1, 1843
May Flower	June —, 1839	Restored.	Hyades	May 10, 1848	Sept. 5, 1848
Papineau	June 2, 1840	July 10, 1840	Leonidas	May 11, 1849	June 29, 1849
Mary	June 2, 1840	July 10, 1840	Harp	Sept. 14, 1850	Jan. 28, 1851
Alms	Sept. 11, 1840	Dec. 8, 1840	Tiber	Oct. 29, 1851	

Of the above vessels three were restored, the May Flower, Two Friends, and the Hope.

Dated July 30, 1852.

SCOTT TREMAIN, *Reg'r.*

No. 16.

HER MAJESTY'S SHIP DEVASTATION, *Charlotte Town, September 16, 1852.*

SIR: I have the honor to intimate to your excellency that the American fishing vessels driven from other parts more easily protected are now flocking in vast numbers to the shores of this island, no less than 110 of them having been seen off the North Point alone on Tuesday last. As, therefore, it will require the utmost exertion on the part of Her Majesty's cruisers to keep the intruders in check, my hands would be much strengthened in the performance of this very important duty if I could leave boats from time to time at places along the shore most frequented by the foreign fishermen.

As the season, however, is now far advanced, the crews of such boats would require shelter; and I have to request that your excellency will be pleased to authorize me to give orders for any trifling expense which may be incurred for the housing of the men to the people providing such accommodation.

From what I have seen, I feel sure that the mackerel-fishing around the shores of this island might be a mine of wealth to its inhabitants as well as to those of the other British provinces, and I trust if we succeed in our efforts this will yet be found to be the case.

The water close to the shore is now absolutely teeming with mackerel in the finest condition, and this entirely within three miles of the land, so that by keeping the foreigners at that distance the shore becomes a vast and valuable preserve for the fishermen of the British provinces.

I have, &c.,

COLIN Y. CAMPBELL,
Commander.

His Excellency Sir ALEXANDER BANNERMAN,
&c., &c.

No. 17.

REGISTRY OF THE COURT OF VICE-ADMIRALTY,
Charlotte Town, October 6, 1852.

A return of American vessels detained and prosecuted in this court for a violation of the convention made between the Government of Great Britain and the United States of America, in the year A. D. 1818, and prosecuted in this court.

Name of vessel.	Date of seizure.	Date of condemnation.	Remarks.
Schooner Florida, of Gloucester, United States of America.	Aug. 3, 1852	Sept. 7, 1852	{ Detained by Her Majesty's schooner Telegraph, Hon. H. Weyland Chetwynd, commander, on the northern coast of Prince Edward Island.
Schooner Union, of Brooklyn, United States of America.	July 20, 1852	Sept. 24, 1852	
Schooner Caroline Knight, of Newburyport, United States of America.	Sept. 11, 1852	* Not yet adjudicated.	
			Detained by Her Majesty's steam sloop Devastation, Colin Yorke Campbell, commander, on the northern coast of Prince Edward Island.

* Subsequently condemned.

WILLIAM SWABEY, Registrar.

In addition to this return, the schooner Golden Rule of Gloucester, United States, was detained by the Telegraph, Lieutenant Chetwynd, and brought into Charlotte Town. Before she was delivered over to the proper authorities in terms of the imperial statute, Vice-Admiral Sir George Seymour arrived in Her Majesty's steam-sloop Basilisk, to whom the master of the Golden Rule appealed, stating he was part owner of the schooner, and would be ruined if she was condemned. The admiral on the 23d August left authority with the lieutenant-governor to direct Lieutenant Chetwynd to liberate the schooner, provided the captain acknowledged the violation of the convention, and that his liberation was an act of clemency on the part of the commander-in-chief. Bartlett, the captain of the Golden Rule, left such an acknowledgment in writing, which was forwarded to Sir George Seymour, along with an addition on a question from the lieutenant-governor, that he had stood inshore to fish, mistaking the Telegraph tender for one of his countrymen's schooners.

A. BANNERMAN,
Lieutenant-Governor.

PRINCE EDWARD ISLAND, October 11, 1852.

No. 18.

CUMBERLAND, AT HALIFAX,
October 30, 1852.

SIR: Several American fishing-vessels having been this season detained by Her Majesty's ships employed in protecting the fisheries, for breaches of the convention of 1818 with the United States, which were subsequently condemned in the courts of vice-admiralty, under the 59 Geo. III, cap. 38, I have the honor to request the instructions of the lords commissioners of the admiralty as to the mode in which the proceeds of the said vessels are to be disposed of.

By the Queen's proclamation for the distribution of prize-money, the net proceeds of captures, seizures for breaches of the customs and navigation laws, &c., &c., not otherwise especially apportioned, are divided among the crews of Her Majesty's ships; but by the colonial act, 6 Will. IV, cap. 8, clause 6, an abstract of which is contained on page 6 of the inclosed pamphlet, one-half is apportioned to the colonial treasury, and the other half to the officer or person seizing the same.

Four of the seizures in question were made by the Netley and Telegraph, tenders of the Cumberland, and I am desirous of instructions as to whether, according to the former practice observed in cases of capture, the ship sending out the tender is entitled to share in the proceeds of their seizure. In two of these cases, I should add, the tender was on detached service, under the orders of Commander Campbell, of the Devastation.

The proceeds are now in the hands of the comptroller of the customs at Prince Edward's Island, and St. John, New Brunswick, and I request their lordships will be pleased to direct what proportions of the seizures I am to obtain, and to describe the mode of distribution.

I have, &c.,

G. F. SEYMOUR,
Vice-Admiral and Commander-in-Chief.

The SECRETARY OF THE ADMIRALTY, &c., &c., &c.

No. 19.

COUNTY OF BONAVENTURE,
DISTRICT OF GASPÉ,
October 18, 1852.

SIR: We, the undersigned magistrates, merchants, ship owners, and other inhabitants of this county and district, deem it our duty to make known to you the high sense we entertain of the valuable services you have rendered to the inhabitants generally on this coast during the past summer. To your untiring perseverance and active zeal we owe the disappearance of American fishermen from the waters of the Bay of Chaleurs; and for the first time during the last fifteen years our waters have teemed with mackerel. The benefits which you have conferred on our fishermen can only be appreciated and understood by those who, like yourself, have studied the subject, and been eye-witnesses of the evils arising from the encroachments of strangers who have no earthly right to trespass on our fishing-grounds.

To the present advisers of our most gracious Sovereign we are indebted for this tardy and long-sought for act of justice, as well as for

the judicious selection of a steam-sloop, commissioned by so well-qualified and efficient a commander. Your duty has been both delicate and harassing, and we feel fully justified in asserting that, though enforcing the terms of the treaty, you have carefully and studiously avoided all harsh or arbitrary acts.

We likewise beg leave, through you, to tender our sincere acknowledgments to the officers under your command for the efficient manner in which they have seconded your exertions, more especially in the dangerous and arduous task of boat-duty, which has been so judiciously and effectively performed.

Most sincerely do we hope that the good work thus commenced will be persevered in by the home government, and that Her Majesty's steamship *Devastation* will return to our shores under your command next spring.

We have, &c.,

JOHN FAUVEL, *Merchant*.
ALFRED CARCAUD, *Merchant*.
PHILIP VIBERT, *Merchant*.
JNO. J. THOMPSON, *C. J.*
JN. WILKIE, *Proctor*.
S. D. DUBORD, *Surgeon*.

And thirty-five others.

C. Y. CAMPBELL, Esq.,
Her Majesty's Ship Devastation.

No. 20.

CUMBERLAND, AT BERMUDA,
November 18, 1852.

SIR: I have the honor to transmit herewith, to be laid before the lords of the admiralty, a copy of a report, dated 10th instant, made by Commander C. Y. Campbell, of Her Majesty's steam-ship *Devastation*, on the fisheries in the Gulf of St. Lawrence, and of his observations during the six months he was employed in their protection.

I beg to call their lordships' attention to the zeal and activity displayed by Commander Campbell whilst on this difficult service, and to the increased productiveness of the colonial fisheries at Prince Edward's Island, Gaspé, and Chaleur, during the present season. I have also to draw their lordships' notice to the favorable terms in which the services of Mr. John Jenkins, mate of the *Devastation*, are mentioned in the report.

With respect to Commander Campbell's opinion that the encroachments of foreigners could be most advantageously prevented by boats, I should acquaint their lordships that I do not consider boats should be employed on any service beyond the reach of support.

A disposition to resistance may not be unlikely to prevail among the United States fishing vessels.

I would therefore repeat the recommendation I offered to their lordships in my letter of the 5th August, 1851, that small vessels with steam power should be sent out early in the next season, supplied with two or more good boats, the latter to be employed within the boundaries upon which the vessels will be engaged.

I inclose an estimate of the expense of the fuel consumed by the *Devastation*, *Basilisk*, and *Buzzard*, during the last summer, which will

show that it is desirable in point of economy, that smaller vessels should be substituted for the protection of the North American fisheries, and of a light draft of water, which would enable them to enter the harbors to which the fishing vessels usually resort.

Their lordships will observe in Commander Campbell's abstract of the deficiencies in the papers of the English vessels, the explanation he offers of the cause of their detention at Port Hood; but the result of his proceedings proves the case would have been more judiciously settled by one or two examples of seizure, and by a representation of the general irregularities in the documents of the vessels, which would have enabled the colonial government to have met the evil in another season, instead of adopting the course he pursued on that occasion.

I shall transmit copies of the report to the Earl of Elgin, and to the lieutenant-governors of the British Provinces, to point out the position which Commander Campbell considers most favorable to the development and extension of the fisheries.

I have, &c.,

G. F. SEYMOUR,

Vice-Admiral and Commander-in-Chief.

The SECRETARY OF THE ADMIRALTY,

&c., &c., &c.

[Inclosure No. 1 in No 20.]

HER MAJESTY'S STEAMSHIP DEVASTATION,

Halifax, November 10, 1852.

SIR: I have the honor to state, that having in pursuance of your orders arrived in the Gulf of St. Lawrence, for the protection of British fisheries, on the 20th of May, I visited the principal fishing-stations along the coast, from time to time, and beg to forward a report of my observations while on that service.

Up to the middle of July there was no encroachment by the Americans on the fishing-grounds; the cause is that the inducement does not present itself until the commencement of the mackerel-fishing, about that time, when they arrive in great numbers.

There is no part of the gulf where fish of all kinds abound more than on the shores of Prince Edward's Island; it is, however, extraordinary, but no less true, that during the summer months a vessel may in fine weather pass along the whole shore without seeing twenty boats, until arriving off the North Point, where a considerable fishery has been lately established at Tignish, a well-chosen station; for having boats on each side of the point, they can even in strong winds have shelter on either side, and have this year succeeded well.

It is to be hoped that this will be an encouragement for enterprise on other parts of the coast, for it is indeed to be lamented that so much wealth should be lost to the island; true it is, that from position and soil, Prince Edward's Island may be called the garden of North America, and that the people are principally engaged in agricultural pursuits; but having the one advantage, they seem to overlook the additional, and certainly the greater one, of a coast teeming with fish, an advantage which in less favored lands is counterbalanced by a sterile and unfruitful soil.

If appreciated sufficiently to arouse exertion, the wealth of that island, through its fisheries, might be great; this would immediately provide the circulation of money now so much required.

During July, when the mackerel strike in, the Americans arrive in their very fine schooners in pursuit of them. The fish are only to be taken close along the shore, so that if they do not encroach they must be unsuccessful; in former years I am assured these vessels have been in the habit of taking away two, and sometimes three, cargoes from the gulf, and as from the 1st August to 7th October, in fine weather, you cannot run the north shore down without seeing 100 United States fishing-vessels, sometimes 150, which carry on an average 500 barrels, worth say at least £200 sterling per vessel. Supposing only that 100 vessels fill up once, the smallest possible estimate of the value taken away annually from the coast of that island alone is £100,000 sterling. The mackerel as the season advances are both more numerous, and of a finer quality; indeed the spring fish are very poor, and it would add greatly to the value of the fisheries if they were not taken early.

Nature has provided that at this their spawning season they do not readily take bait; but from seining, and other means adopted by the Americans, if it had not been checked, the fish would have been exterminated in a few years, while the protection of the coast this year will in all probability cause a great increase in future seasons.

The water already abounds with small mackerel, about three inches long; this, I am told, has not occurred before to any extent, and is imputed to the protection of the spawning-fish during spring.

It seems to be a clearly established fact, that not only is the mackerel valuable in itself, but where that fish is plentiful the cod is also so.

Proceeding north from Prince Edward's Island, the Bay Chaleur is the next important fishing-ground. At its mouth, on the south side, is the Island of Miscou, where there are two considerable fishing establishments connected with Jersey houses.

On Shippigan Island up the bay, on the same side, are also several establishments. Again, higher on the mainland is Caraquette, from which there are 150 boats; the people are all of French extraction and speak the language. They sell their fish to the Jersey merchants, of whom they loudly complain in summer for grinding them down as to prices, but in winter are often kept from starvation by advances from these houses. They appear to be a most improvident and thoughtless people.

These islands, Miscou, Shippigan, and the mainland, form a bay of great extent; the water is shallow, and, from being land-locked, is usually very smooth. This is a very favorite spawning-ground for the mackerel in spring, but the Americans have in former years flocked in after them, capturing them in incredible numbers.

The offal thrown over while cleaning the mackerel has had a most injurious effect on the cod-fishing, for, as I before remarked, the large number of mackerel would insure a good cod-fishing were it not that they were fed in this way, and prevented from taking bait; so that what would, if the treaty were observed, be a certainty of success to the British fishermen, has thus been made the cause of failure.

Is it highly essential that this ground should (in spring and the early part of summer especially) be rigidly protected, not only on account of its great local importance, but if the mouth of Chaleur Bay is protected it is all protected.

Crossing Chaleur Bay, there is a considerable fishing carried on at Port Daniel, by a race peculiar to that place. They are descended from some French settlers who attached themselves to Indian women; they are very indolent and improvident, and could not succeed if the fisheries were ever so productive; they also find a market in the Jersey houses.

Higher up, at Paspébiac, are the large fishing establishments of Messrs. Robin & Co., and Messrs. Le Boutillier, of Jersey, whose vessels, amounting to about 2,500 to 3,000 tons, assemble in early spring, moor and dismantle; the crews are then dispersed among these fishing-boats and curing establishments till the autumn, when they return to their vessels, load, fit them out, and proceed to the Mediterranean and South American ports.

The cod-fishing at Paspébiac has been as good as in former years, and for the first time for many seasons the mackerel have appeared; for although from the number of American schooners which infested their coasts formerly the people were aware the mackerel were there, they never were permitted to see them close to the shore.

This change gives them great hope for the future, for they attribute all their want of success of late years to the Americans taking the mackerel, and especially to their cleaning them in their waters.

Few, however, of the intruders have entered the bay this season, and if they can be kept out in future great results are expected.

The next and by far the most important fishing establishments are at Percé, Point St. Peter, and Gaspé Bay, chiefly connected with Jersey houses. They have been this year more successful with fewer men employed than for many years past, and attribute it to the Americans having been kept off completely by a boat from this sloop, which for the whole season was stationed at Point St. Peter by your orders.

So effectually was the duty performed by this boat, that I am assured scarcely an American vessel encroached within the limits between Percé and Cape Gaspé.

To the attention, energy, and zeal of Mr. Jenkins, mate of this sloop, the service is alone indebted for the very satisfactory performance of this important duty, as well as for the creditable and steady behavior of the boat's crew, of whom there was not a single complaint during the season.

I would respectfully suggest the expediency of stationing a boat at that point each season, as from it, in clear weather, the officer can see a great extent of the most important fishing-ground in the gulf.

A great number of the fishermen employed on this coast are from Quebec; but much time is lost in consequence of their not arriving early enough in the season.

In Chaleur Bay, round as far north as Gaspé, the fishing is carried on exclusively in open boats.

Round the shores of Anticosti, codfish are numerous, but from the want of harbors even for boats, the pursuit of them would be hazardous.

There is, however, at the southwest light-house, a fine harbor for boats, and a fishery might be established there without difficulty, and with great advantage.

On two occasions, while this sloop was hove-to off there, the ship's company were most successful, catching great quantities of cod, even under the disadvantage of having no proper bait.

Along the coast of Labrador, between the Bay of Seven Islands and Cape Whittle, there are no fishing establishments; but in former years the Americans were in the habit of frequenting Seven Islands very much; they last year, mustering 100 sail of vessels, committed excesses in stealing and destroying wood, the property of the Hudson Bay Company's agent, the only European resident there. This year, however, only seven or eight vessels have appeared, and they only for a few days. The Arrow, hired tender, was fortunately there on their arrival, and on removing her to the Bay of Chaleur I was enabled, in consequence of the cordial co-operation of the Canadian armed brigantine Alliance, to keep that coast perfectly protected.

Seven Islands is an excellent harbor, and as, during the early part of summer, mackerel abound within the shelter of that beautiful bay, it will be a valuable rendezvous for the British fishing-vessels in future seasons, but they do not appear yet to frequent it.

A boat's crew would be sufficient to prevent their being molested.

The cod fishery is good along the coast, but as the country is not inhabited it is only followed by a few small vessels from the neighboring provinces and the Magdalen Islands.

The harbor of Mingan is a very excellent one, and the fisheries in the neighborhood would, if followed up, be very valuable, while the great number of islands would be most advantageous for shelter.

Round the Magdalen Islands the fisheries have been very productive in former years, and the people are quite dependent on them.

The herring and mackerel fishery commences here in June, and the Americans begin to arrive at this time. A considerable number of vessels also arrive from the British provinces, and as the fishing is all carried on by nets in spring, the number laid down is enormous, especially in Pleasant Bay. The fish at this time are making for the close neighborhood of the shore to spawn, and the people seem surprised that the fishing is less productive every year, but it is only wonderful that any escape, and that they are not exterminated.

It would be greatly to the advantage of these islands, and to that of the fisheries generally, if the spring fishing were confined by law to the ground-fish (cod, &c.), and if the mackerel were only pursued during the fall of the year; by this means the fishery would revive, and a far greater quantity of fine fish would reward the labor than those of an inferior kind, now decreasing every season.

The herring would still be required for a supply of bait, but they are not nearly so important for commercial purposes as the mackerel, and would be well bestowed in that way.

The people of the islands do not generally complain of the Americans; on the contrary, they seem to receive them much more warmly than the people from the provinces. This is easily accounted for; the Americans employ a number of them, and pay them well, while they buy their little farm produce and also their fish, and bring them articles free of duty. The people from the provinces, on the contrary, leave nothing, and take much away.

These islands seem much in want of some kind of government. At present there is no law, except that administered by a few magistrates, who are more acknowledged as such by sufferance than by right. If they require to enforce the law, they have no one to carry it into effect by the apprehension of criminals (no one daring to act), while if they could arrest, there is no prison in the islands.

It does not seem expedient, where several conflicting interests annually meet, that this state of things should continue.

During the late season, the people came to an agreement against seining on the shores of the islands, but the magistrates appeared doubtful whether they could enforce even that very necessary regulation against the provincial and American vessels.

In Saint George's Bay, Newfoundland, the principal fishery is the herring, which commences toward the end of April and lasts about three weeks, during which time, this spring, the vast quantity of 21,000 barrels were caught and cured. This great fishery has the effect of making the people careless as to any other; and indeed, though the actual season lasts so short a time, the preparation for it is a work of considerable labor, for in many cases the people make their own barrels, and are employed for a long time after the "catch" in curing.

It is a very fortunate provision that this fishery is at a season while the weather is yet cold, for if it were not so, advantage could not be taken of the great quantity caught in so short a space of time.

I am informed that by herring alone an industrious man may realize from £50 to £70 sterling.

The cod fishery is little followed here, and scarcely at all for exportation. A great many eels are caught for winter use.

The salmon-fishing had not been good this season, and it is never very productive.

The law is very loosely administered, but on my visit everything was quiet and the people contented, in consequence, I presume, of a plentiful herring season.

Agriculture is more followed here every year. The short duration of the lucrative fishery, as well as the season of the year at which it is followed, is favorable to this.

Throughout the gulf there is no fishery so valuable as that on the Cape Breton shore, especially between Wolf Island and Port Hood, from about the first of October to the end of the season. At this time the mackerel, being very numerous and of the finest quality, draw to a point nearly all the fishing-vessels, both colonial and American.

The latter, this season, have been very persevering in their efforts to evade the treaty, and have run great risks for that purpose.

Immediately on arriving there I saw the necessity of placing a boat at Wolf Island; for, taking advantage of the liberal interpretation of the treaty of the British Government, the Americans were in the habit of anchoring, even in fine weather, for the night, close to the island, 100 sail at a time, and weighing the next morning (if no cruiser was near); of throwing their bait over and drifting off shore, keeping the fish attracted for a considerable distance, making the best of the opportunity that circumstances would admit, renewing this scheme each morning. A boat, however, from this sloop, in charge of Mr. Jenkins, mate, at once put a stop to it, and shelter under this island was no longer sought, to any extent, by them.

Finding themselves foiled by this and other boats, the American flag disappeared almost entirely about the 26th October, being at least a month earlier than in former seasons; another proof that in order to succeed the treaty must be evaded.

Full and free possession would at this time have been secured to the British colonial fishermen, which could not have failed to have been very lucrative, had it not been that a system of fraud and collusion was got up at some of the outports in Nova Scotia and Prince Edward Island, by which American vessels were supplied with the British flag and papers, the latter in most instances disguised with an ingenuity worthy of a better cause.

Having had so large a share in the execution of your orders in performing the duty of keeping the Americans off under the United States flag, I considered it at least as imperatively my duty to prevent their assuming the British flag to cover their depredations. Having observed the number of vessels under British colors increase greatly in the course of a few days, and it being apparent, from this and other indications, that fraud to a great extent was going on, I took advantage of the 13th, 14th, and 15th ultimo, of a large number of vessels anchoring in Port Hood to examine their papers, generally an easy matter, and one (especially where British vessels are concerned) requiring a very short space of time.

On boarding the vessels, however, I found, from the lax state of the administration of the customs laws in some of the provinces, that it was impossible to detect those really fraudulent among so many which were sailing (perhaps through carelessness) contrary to law, and the weather at the time being very stormy, aggravated my difficulty.

Under such circumstances, when the weather cleared up, on the 20th, having taken the description of each vessel, and the particulars of her illegal papers, I considered it right to release all except the Creole, now in the vice-admiralty court at Halifax, and two vessels without certificates of registry (afterward released).

I beg to annex a summary of the defects of the papers of the vessels detained, which will show the amount of difficulty I was involved in, and the cause of the length of the detention.

I consider it my duty to call your attention, respectfully but earnestly, to this abstract, which shows that fraud to an enormous extent is perpetrated, and that, from the almost total disregard of the several acts of Parliament for regulating the mercantile marine of Great Britain and the Colonies, especially at the outports, it is carried on with comparative impunity, and that it must be so until the correctness of the papers of vessels of real British ownership enables an officer to detect fraud, which is impossible under existing circumstances.

I have also to represent how beneficial it would be for the service if the Colonial armed vessels employed for the protection of the fisheries were instructed to assist Her Majesty's ships in the execution of the duty, a provision which in the case of the Canadian brigantine was attended with such beneficial results.

I cannot close this part of my report without mentioning my reasons for dwelling so much on the mackerel fishery.

Firstly. That fishery is the only cause of foreign encroachment in the part of the gulf in which Her Majesty's sloop has lately been stationed.

Secondly. The mackerel affords the best bait to our fisheries: and while the Americans have encroached, not only have they been deprived of it, but the cod-fisheries have been ruined by the offal thrown over on the ground.

Thirdly. The mackerel can alone be taken within the limit prescribed by the treaty, so that while the shore is protected, that fishery is a rich and exclusive privilege of the British colonist.

The preservation of the mackerel may therefore be considered the preservation of all the other fisheries.

It has been remarked, and with truth, that a number of the best colonial fishermen have hitherto preferred serving in United States vessels; and the reasons are obvious.

The United States vessels have fished, although contrary to treaty, close to the shore for years, almost without hindrance, and their masters have now great experience. They are superior vessels for the purpose, the capital of the owners being generally larger, and the bait, an article of value, being more plentiful, the "catch" is greater.

In each case, the men are paid on what is called the half-hand system; that is, each man has half his own "catch," paying for his proportion of the bait used. The American vessel is more successful, therefore the fisherman goes to her, and is paid in hard cash, the master buying his share, which is taken into market free of a heavy duty which, if serving in a provincial vessel, he would have indirectly to pay.

The remedy is simple, viz, to keep the Americans off, according to the treaty; the provincial vessel then becomes not only more, but alone successful, and it will be the interest of the experienced fisherman to return to his natural employer, in whose vessel he enjoys an exclusive privilege, more in value tenfold than the amount of duty which the United States vessel frees him from.

To Great Britain, in connection with her North American colonies, this suggests an important consideration, for it cannot be desirable that so many young men should be employed in United States vessels. And if they are, it cannot be supposed that their loyalty will not be shaken when they continually hear republicanism loudly applauded.

Again, it is obvious that if the British fisheries are protected, and a rich advantage secured to the colonist (though he be tainted by such pernicious intercourse), he knows when he becomes a citizen he loses it.

It is a matter of no consequence whether the United States fisherman comes in by treaty, contrary to treaty, or by the last means attempted, under false colors, if he does come in and take away the unbounded wealth which he has of late years been taking. The colonist feels that he has not the exclusive advantage which he ought to have, and thinks, as he has been heard to say, that if not protected he might as well have the advantage of a free United States market.

The effect on the man who looks to self-interest only is therefore clear; he does not gain by being a British subject, and has nothing to lose on becoming a citizen of the United States.

In short, I respectfully submit that the protection of the fisheries forms the closest bond of union between Great Britain and North America. I have been deeply impressed with this opinion during my intercourse with the people, and feel it a duty to represent it.

Before concluding, I beg leave to make a suggestion, which I believe, if carried out, would not only be the most efficient, but the most economical means of protecting the fisheries along the shores of the gulf.

The efficiency of boats has been proved in several instances during the late season, even to the extent of obliging the American vessels to give up attempting to fish near where a boat has been placed. The reason is, that it is in the light winds that the mackerel vessels are most successful, and if at that time a boat is near, an encroaching vessel must be captured.

I would therefore suggest, that from ten to twelve serviceable cutters or large whale-boats should be stationed at different points along the shores of the gulf. The proper positions for such boats could be at once pointed out by any officer who has once been employed on the service; and I have no hesitation in stating my belief that with twelve boats well manned, and in charge of officers possessing energy and zeal, the Americans might entirely be kept off all the fishing grounds of that part of the gulf on which the Devastation was lately stationed. A steam-vessel would then alone be required to go round and relieve the sick and supply provisions.

It may be thought that boats would be resisted, but I do not conceive it would be so, for within the limits evidence of it would always be at hand, and the interest of the crew is not sufficient to induce them to run the risk whatever that of the master may be.

If this plan were adopted, the men should be steady, and it would be advisable that they should have a small gratuity at the end of the season if their conduct deserved it.

Colonial grants would be well bestowed for this purpose.

Trusting that my experience during the late season, and the extreme importance with which I view the question of protection to the British fisheries, will be held to excuse my presuming to offer the remarks and suggestions contained in this letter.

I have, &c.,

C. Y. CAMPBELL,
Commander.

Vice-Admiral Sir G. F. SEYMOUR, K. C. B.,
Esq., Esq., Esq.

[Inclosure 2 in No. 20.]

Abstract of the state in which the papers of vessels under the British flag were found at Port Hood, between the 13th and 23d of October, 1852, as referred to in Commander Campbell's Report on the Fisheries in Gulf of St. Lawrence.

Vessels with masters' names not indorsed on certificate of registry	20
Vessels without any name on their stern	5
Vessels on the certificate of registry of which owners' names do not appear	2
Vessels having the name of master different on certificate of registry and clearance	7
Vessels without any fishing-certificate or clearance	9

Scarcely in one instance was the tonnage marked on main beam, in accordance with the act of Parliament.

C. Y. CAMPBELL,
Commander.

No. 21.

VICE-ADMIRALTY COURT OF NEW BRUNSWICK,
St. John, N. B., October 11, 1852.

The following is a list of vessels seized and prosecuted in this court for infraction of that part of the convention of 1818 between Great Britain and the United States of America, relating to the fisheries, during the period from the time of the convention to the present time :

Name of vessel.	Date of seizure.	Condemnation or restitution, with date.
Shallop L'Orient	June 26, 1822	Condemned, Sept. 14, 1822.
Schooner Gallion	July 18, 1824	Condemned, Aug. 16, 1824.
Schooner William	July 18, 1824	Condemned, Aug. 16, 1824.
Schooner Escape	Oct. 7, 1824	Condemned, Nov. 18, 1824.
Schooner Rover	Oct. 7, 1824	Condemned, Nov. 18, 1824.
Schooner Sea Flower	Oct. 7, 1824	Condemned, Nov. 18, 1824.
Schooner Coral	June 16, 1852	Condemned, July 22, 1852.

J. M. ROBINSON,

Registrar and Scribe of the Vice-Admiralty Court of New Brunswick.

No. 22.

TO THE QUEEN'S MOST EXCELLENT MAJESTY.

The humble address of Your Majesty's legislative council and house of assembly of the Province of New Brunswick.

May it please Your Majesty :

We, Your Majesty's dutiful and loyal subjects of the legislative council and assembly of New Brunswick, beg leave to approach your majesty with renewed sentiments of profound respect, and with unabated attachment to Your Majesty's person and government :

We desire to express to Your Majesty the sincere and heartfelt gratitude of all classes of Your Majesty's faithful subjects in New Brunswick for the gracious attention given by Your Majesty to their complaints respecting the encroachments by citizens of the United States upon the extensive and valuable fisheries adjacent to the coasts of this prov-

ince, and for the efficient measures adopted by Your Majesty's Government to guard those fisheries during the past season from wanton aggression :

The fishermen of the United States, stimulated by a large bounty, and protected by a duty of twenty per cent. on British-caught fish, have been placed in the most favorable position both as regards their own and foreign markets, yet, not content with these advantages, they constantly encroach upon the coast fisheries of these North American colonies, any participation in which was expressly relinquished and renounced by the Convention of 1818.

In the commercial transactions between these provinces and the United States the latter possess other decided advantages. Their manufactures are admitted into the provinces at the same rates of duties as are charged on British merchandise. The colonial legislatures, contrary to their wishes and feelings, have been restricted from imposing discriminating duties. While the merchandise of the United States is admitted into this province at a duty of eight and a half per cent. *ad valorem*, the products of New Brunswick are subject, upon importation to the United States, to duties at an average of from twenty to thirty per cent.; while American ships freely trade between colony and colony, and from England to her distant possessions in Australasia and India, colonial vessels cannot pass from one American port to another, as from Boston to New York, or from the Atlantic ports of the United States to California or Oregon; while colonial ships cannot be sold in the United States or obtain registers there, vessels and steamers built in those States are sold in these colonies, and American-built steamers are at this moment plying on the inland waters of this province with British registers.

The manifestations of an enlarged and liberal policy by Your Majesty's Government have not been met in the same spirit by the Government of the United States; and we therefore earnestly entreat that Your Majesty will preserve inviolate the rights and privileges of your attached subjects in these provinces, as secured to them by existing treaties, and will not concede any further or greater privileges to foreign fishermen than they now enjoy without first granting your loyal subjects a hearing thereupon.

The protection granted by Your Majesty's vessels of war has this year enabled colonial fishermen to enjoy their shore fisheries undisturbed and in a profitable manner. We therefore humbly entreat that Your Majesty will be pleased to continue such protection as one of the greatest boons to the North American fisheries, because thereby they will be freed from foreign aggression, and may be prosecuted extensively with great benefit and advantage to Your Majesty's devoted subjects.

WILLIAM BLACK,

President of Legislative Council.

WILLIAM CRANE,

Speaker of the House of Assembly.

NOVEMBER 1, 1852.

No. 23.

TO THE QUEEN'S MOST EXCELLENT MAJESTY.

The humble address of the house of assembly of the Province of Nova Scotia.

May it please Your Majesty :

We, Your Majesty's dutiful and loyal subjects, the representatives of your Majesty's faithful people of Nova Scotia, beg leave to approach the throne with the renewal of the tender of affectionate support to Your Majesty's person and government.

We have learned with deep interest that negotiations are pending between Your Majesty's Government and the Government of the United States, involving not only questions of reciprocal trade between the two countries, but the surrender of national and colonial rights of a very important character.

Warned by the experience of the past, and the results of treaty stipulations, in which the interests of British America have been seriously compromised, without the provincial governments and legislatures being consulted, the house of assembly pray that no treaty may be negotiated by Your Majesty which would surrender to foreigners the reserved fisheries on our sea-coasts, or any participation therein, without an opportunity being afforded to the government and legislature of Nova Scotia to consider and express our opinion upon its terms.

W. YOUNG,
Speaker.

HOUSE OF ASSEMBLY, *February 17, 1853.*

No. 24.

TO THE QUEEN'S MOST EXCELLENT MAJESTY.

The humble address of the representatives of the people of Nova Scotia.

May it please Your Majesty :

We, Your Majesty's faithful and loyal subjects, the commons of Nova Scotia, with warm attachment to the government and person of Your Majesty, express our gratitude for the protection afforded to the fisheries of British America, and the regard given to colonial interests, which have enabled British subjects during the last year to enjoy their rights and privileges free from foreign aggression.

Inspired with confidence, we humbly solicit a continuance of such efficient protection as will maintain inviolate the exclusive enjoyment of those fisheries, the inherent right of the British people, an inexhaustible source of commerce, and a fostering nursery for the national marine of the British Empire.

Your Majesty's subjects in this part of your dominions are of opinion that the commerce of their country is supported chiefly by the fisheries, which constitute a source of incalculable wealth, and ought not to be participated in by any foreign power on any consideration whatever.

That notwithstanding the advantages conferred on the citizens of the United States by the generous policy evinced by Your Majesty, they

still adhere to their illiberal and protective system, which they sustain with unyielding tenacity.

Whilst the shipping of America, built, manned, and equipped in the United States, can be sold in the British colonial ports without duty, and obtain British registers, American citizens deny any corresponding privilege to Your Majesty's subjects. Whilst their vessels participate with British tonnage in the trade with Britain's colonies, supplying their productions and manufactures on the same terms as British, whilst they trade with the British North American colonies in the islands of the Pacific, a British vessel cannot load from New York or Boston for the other States of the republic, or trade from any American port to California or Texas.

Your Majesty's loyal subjects therefore pray Your Majesty to continue the protection which was extended to them last season, and by force to repel all foreign aggression on their reserved fishing-grounds—the exclusive enjoyment of which is solemnly renounced to the British by the Convention of 1818, between Your Majesty and the republican government; fully believing that the admission of foreigners to participation in that fishery would have a most disastrous effect, can be purchased by no equivalent, and would tend to weaken the confidence of Your Majesty's subjects in the policy of a government which does not protect your people in the enjoyment of their inalienable rights.

W. YOUNG,
Speaker.

HOUSE OF ASSEMBLY, *March 30, 1853.*

No. 25.

TO THE QUEEN'S MOST EXCELLENT MAJESTY.

The humble address of the legislative council of Nova Scotia.

May it please Your Majesty:

The legislative council of Nova Scotia approach Your Majesty with sentiments of loyalty and attachment to your royal person and government, and beg to express their grateful sense of the benefit conferred upon the people of this province by the protection afforded to the fisheries on their coasts during the past year. The legislative council assure Your Majesty that the exclusive right to the enjoyment of these fisheries is esteemed by them a source of great wealth to the province, upon which its commerce largely depends; and they regard preservation of them from the aggression of foreigners as another instance of the deep interest felt by Your Majesty in its welfare.

Notwithstanding the recognition by treaty on the part of the United States of America of the exclusive right of Your Majesty's subjects to fish on the coast of the North American provinces, the citizens of that country have year after year encroached upon that right; and though the most liberal commercial policy is evinced by Your Majesty toward the republic, all attempts to induce them to abandon their protective system have been resisted, and they not only take fish out of our waters after having solemnly renounced the right to do so, but Your Majesty's subjects are met in the United States by almost prohibitory duties, while large bounties are extended to their own people.

The legislative council pray Your Majesty to continue to employ such a force as will prevent any encroachment on their fishing grounds, and secure to them the enjoyment of rights to which they are exclusively entitled.

MICHL. TOBIN,
President.

LEGISLATIVE COUNCIL CHAMBER, April 4, 1853.

No. 26.

TO THE QUEEN'S MOST EXCELLENT MAJESTY.

The humble address of the inhabitants of the city and county of St. John, adopted at a public meeting regularly convened.

May it please Your Majesty :

We, Your Majesty's faithful and loyal subjects in the city and county of St. John, in the Province of New Brunswick, beg leave to approach Your Majesty with renewed assurances of our sincere devotion to Your Majesty's person and Government.

In common with all Your Majesty's loyal subjects in the North American colonies, we are deeply impressed with the present and prospective value of our coast fisheries to the present and future inhabitants thereof.

Viewing the inshore fisheries as the natural, inherent, and inalienable right of Your Majesty's subjects in the provinces, not to be conceded, alienated, or affected without their consent, we have learned with much anxiety, from the announcement in Your Majesty's speech to the Imperial Parliament, that negotiations are now pending between Your Majesty's Government and that of the United States upon the subject of the North American fisheries, the nature of which has not transpired.

Believing, as we do, that "as the value of a participation in our fisheries by the citizens of the United States would greatly exceed any concession that the United States Government can offer to the inhabitants of the British colonies," we humbly, but earnestly, entreat Your Majesty to refuse to entertain any proposition for a modification or alteration of the Treaty of 1818, unless such proposition shall embrace the full and entire question of reciprocal intercourse in commerce and navigation between Your Majesty's North American colonies and the United States, upon terms that will be just and reasonable; and that, before any treaty is agreed upon, Your Majesty will be graciously pleased to afford your loyal and faithful subjects in the provinces an opportunity of becoming acquainted with the terms proposed, and of laying their case before Your Majesty.

And as in duty bound will ever pray.

CHARLES JOHNSTON,
Chairman.

JANUARY, 1853.

No. 27.

TO THE QUEEN'S MOST EXCELLENT MAJESTY.

The humble memorial of the inhabitants of the county of Northumberland, in the Province of New Brunswick, in British North America, most humbly sheweth :

That your memorialists approach Your Majesty with renewed assurance of their loyalty and attachment to Your Majesty's person and Government.

Your memorialists observe with deep anxiety, from Your Majesty's royal speech at the opening of Parliament, and the late message of the President of the neighboring republic to Congress, that negotiations are now pending between Your Majesty's Government and that of the United States, affecting the rights of fishery on these shores.

The coast fisheries hitherto enjoyed by the people of this province, spared to them by the Convention of 1818, although long an object of jealousy to, and frequently intruded upon by, the people of the United States, your memorialists have ever considered to be their exclusive and unalienable right, in common with their fellow-subjects of Your Majesty's Crown ; and they appreciate them accordingly.

That these fisheries have not heretofore been prosecuted to an extent commensurate with their importance, we pray Your Majesty not to ascribe to any distaste or unfitness on the part of the people of this province for the pursuit ; but rather to the sparseness of population and absence of capital incidental to a new country, as well as to the unhappy preference too long paid to the manufacture and export of timber. But as these obstacles have gradually disappeared, the prosecution of the fisheries has proportionally extended ; much capital is now embarked in it ; the people, at the cost of much time and labor, have just acquired the necessary skill and experience for its profitable conduct ; and already has it become an industrial pursuit of vital importance to the inhabitants of these shores. Your memorialists would further add their conviction that the time is not far distant when the inhabitants of this and the neighboring counties must look to the produce of these fisheries for their chief staple of export ; the question, therefore, of the alienation or preservation of these fisheries becomes to them one seriously affecting their future progress or decline as a commercial people.

Your memorialists would most humbly bring under Your Majesty's notice that the trade between this province and the United States of America has been conducted, for some years past, upon principles unfair and oppressive to your memorialists ; for while the produce and manufactures of that country have been admitted into this province at a moderate rate of duty, and in accordance with the policy of the Imperial Government upon equal term with those of the United Kingdom, our commodities have been met there by a high protecting tariff ; and while the ships of the United States are here permitted to be introduced to receive a British register, and enter at once into competition with our own, colonial ships are denied a market in the United States.

In view of these evils, your memorialists would humbly submit to Your Majesty that such a modification of the tariff and navigation laws of the United States as would place the trade between that country and these colonies on a footing of equality should be considered merely as an equitable arrangement, mutually beneficial, but by no means affording an adequate compensation for yielding up interests of such magni-

tude and national importance as the shore-fisheries of British America, which, when once alienated, may never be recovered.

Your memorialists would therefore most earnestly pray Your Majesty to consent to no alteration of the Convention of 1818 with the United States of America which would tend to deprive them of, or abridge their rights to, the shore-fisheries on this coast, until the terms upon which such alteration is proposed to be made be first submitted to this province for their concurrence.

And as in duty bound Your Majesty's memorialists will ever pray.

W. A. BLACK,

*High Sheriff of the County of Northumberland,
Chairman of the Meeting.*

NEWCASTLE, MIRAMICHI, January 5, 1853.

No. 28.

CONSULATE OF THE UNITED STATES,
Province of Nova Scotia, Pictou, October 28, 1852.

SIR: Since my return from Charlotte Town, where I had the honor of an interview with your excellency, my time has been so constantly employed in the discharge of official duties connected with the results of the late disastrous gale, so severely felt on the north side of Prince Edward Island, that I have not found time to make my acknowledgments to your excellency for the kind and courteous reception extended to me at the government-house, nor to furnish you with my views relative to some improvements which might be made by your excellency's government, thereby preventing a similar catastrophe to the one which has so lately befallen many of my countrymen; and at the same time on behalf of the Government of the United States, which I have the honor to represent, to thank you most feelingly for the promptness and energy displayed by your excellency in issuing proclamations, whereby the property of the poor shipwrecked mariner should be protected from pillage.

These various duties devolving on me, I now have the pleasure of discharging, but only in a brief and hurried manner.

The effect of the recent visitation of Providence, although most disastrous in its consequences, will yet result in much good.

In the first place, it has afforded the means of knowing the extent and value of fisheries on your coast, the number of vessels and men employed and the immense benefit which would result to the people within your jurisdiction, as well as those of the United States, if the fishermen were allowed unrestrained liberty to fish in any portion of your waters, and permitted to land for the purpose of curing and packing.

From remarks made by your excellency, I am satisfied it is a subject which has secured your most mature reflection and consideration, and that it would be a source of pride and pleasure to your excellency to carry into successful operation a measure fraught with so much interest to both countries.

2d. It has been satisfactorily proved, by the testimony of many of those who escaped from a watery grave in the late gales, that had there been beacon-lights upon the two extreme points of the coast, extending a distance of 150 miles, scarcely any lives would have been lost, and but a small amount of property been sacrificed. And I am satisfied, from the opinion expressed by your excellency, that the attention of your

government will be early called to the subject, and that but a brief period will elapse before the blessing of the hardy fishermen of New England, and your own industrious sons, will be gratefully returned for this most philanthropic effort to preserve life and property, and for which benefit every vessel should contribute its share of light-duty.

3rd. It has been the means of developing the capacity of many of your harbors, and exposing the dangers attending their entrance and the necessity of immediate steps being taken to place buoys in such prominent positions that the mariner would in perfect safety flee to them in case of necessity, with a knowledge that these guides would enable him to be sure of shelter and protection.

From the desire manifested by your excellency previous to my leaving Charlotte Town that I would freely express my views relative to the recent most melancholy disaster, and make such suggestions as might in my opinion have a tendency to prevent similar results, there is no occasion for my offering an apology for addressing you at this time.

I have, &c.,

B. N. NORTON,

United States Consul for Pictou Dependency.

His Excellency Sir A. BANNERMAN, &c., &c.

No. 29.

CHAMBER OF COMMERCE,

St. John's, Newfoundland, June 25, 1853.

SIR: I have the honor to receive and have laid before the Commercial Society your letter of the 21st instant, stating that his excellency the governor "will be glad to be enabled to convey to his grace, the Duke of Newcastle, the views and wishes of the society on the subject of the establishment of reciprocal free trade between this colony and the United States of America."

And I am directed to acquaint you, for the information of his excellency, that the society, having fully considered the matter, are of opinion, with reference to free trade with the United States, that as imports from that country are now admitted upon the same terms as from Great Britain and elsewhere, at a duty of about 5 per cent. (collected solely for the purpose of revenue), whilst the produce of our fisheries are subject to a duty of 20 per cent. on admission to the United States, it is desirable that in any commercial treaty entered into between the Government of the United States and Great Britain, the interests of this colony should be so far protected that goods imported from each country should be received at the same rate of duty.

That the views of the American Government should be obtained from our minister at Washington, in order that the society may more fully understand what they propose in reference to this colony, that the same may be more fully considered before any definite arrangement be entered into.

That the prosperity of Newfoundland depending on her fisheries, it would be impolitic and unwise to admit any foreign power to a participation therein further than has already unfortunately been done.

I have, &c.,

PETER McBRIDE,

President Chamber of Commerce.

Hon. JAMES CROWDY,
&c., &c., &c.

No. 30.

TO THE QUEEN'S MOST EXCELLENT MAJESTY.

May it please Your Majesty :

We, Your Majesty's loyal subjects, the Commons of Newfoundland, in general assembly convened, beg leave to approach Your Majesty with sentiments of unswerving loyalty to Your Gracious Majesty's person and throne, to tender to Your Majesty our respectful and sincere acknowledgments for the protection afforded by the Imperial Government to the fisheries of this colony and Labrador, during the last year, and to pray that Your Gracious Majesty will be pleased to continue the same during the ensuing season.

May it please Your Majesty :

The illicit traffic in bait carried on between the inhabitants of the western part of this island and the French, has proved of serious injury to the fisheries generally, as the supply enables the French bankers to commence their voyage early in spring, and thereby prevent the fish from reaching our coasts. We therefore most earnestly beseech Your Majesty graciously to be pleased to cause an efficient war steamer to be placed in Burin during winter, so that, by being early on the coast, she may avert the evil of which we so greatly complain.

Passed the house of assembly, April 23d, 1853.

JOHN KENT, *Speaker.*

No. 31.

[Memorandum.]

VICE-ADMIRALTY COURT, *Prince Edward Island.*

The United States fishing schooner Union, Warren D. Bunker, master, was seized on the 20th day of July, 1852, by Her Majesty's schooner Telegraph, the Hon. Henry Weyland Chetwynd, commander, for fishing within the three-mile limit.

Vessel condemned on the 24th September of same year—the judge by interlocutory decree pronouncing “the said schooner Union to have been fishing contrary to the provisions of the act of Parliament made and passed in the fifty-ninth year of the reign of His late Majesty King George III, intituled ‘An act to make regulations with respect to the taking and curing of fish on certain parts of the coasts of Newfoundland, Labrador, and His Majesty's other possessions in North America, according to a convention made between His Majesty and the United States of America,’ and as such or otherwise subject and liable to forfeiture and condemnation, and condemned the said schooner, her tackle, apparel, and furniture, goods and merchandise found laden on board the said schooner at the time of her seizure, as forfeited to our Sovereign Lady the Queen accordingly.”

Appearance was filed for the defendants in this case, “but nevertheless under protest to the jurisdiction of this court.” Upon argument, the judge overruled the protest and decreed that the parties should appear absolutely. No appearance, however, was filed.

I cannot find from any papers in this case, at present in the registry of this court, that this vessel was ever interfered with by government officers for transshipping fish or purchasing supplies.

The schooner Florida, of Gloucester, United States, Edmund Pyne, master, was seized on the 3d day of August, 1852, by Her Majesty's schooner Telegraph, Lieut. the Hon. Henry Weyland Chetwynd, commander, for fishing within the three-mile limit.

Appearance filed for defendants in this case, but under protest to the jurisdiction of this court. Upon argument, the judge overruled the protest and decided that the defendants should appear absolutely.

The defendants' solicitor submitted and admitted the cause of the suit, and prayed for an early condemnation. Vessel condemned by consent, and decreed forfeited to Her Majesty, for the same reasons as in the case of the schooner Union.

I cannot find from any papers in the case, at present in the registry of this court, that this vessel was ever interfered with by government officers for transshipping fish or purchasing supplies.

The schooner Caroline Knight, of Newburyport, United States, Benjamin Small, master, was seized on the 11th day of September, 1852, by Commander Colin Yorke Campbell, of Her Majesty's steam-sloop Devastation, for fishing within the three-mile limit.

The schooner condemned by consent, and decreed forfeited to Her Majesty for violation of the act 59 George III, cap. 38.

It does not appear from any papers in this case, at present in the registry of this court, that this vessel was ever interfered with by government officers for transshipping fish or purchasing supplies.

Of date 15th August, 1853, the following minute of court appears :

Regina v. American fishing vessel Starlight.

Affidavits made before the judge in chambers by Colin Yorke Campbell, captain commanding Her Majesty's steam-sloop Devastation, John May, esq., master, and George Rathbone, esq., second lieutenant, and George Harris, esq., midshipman of the same.

No further entry in this case appears on the record of the court, and I presume therefore that the prosecution of the Starlight was abandoned.

(Signed)

CHARLES DESBRISAY,

Registrar.

No. 32.

[Extract of a speech of the Hon. Joseph Howe, from the Spectator, July 19, 1865.]

Let me now draw your attention for a moment to the value of these North American fisheries. You have behind and around you here, boundless prairies, which an all-bountiful Creator annually covers with rich harvests of wheat and corn. The ocean is our prairie, and it stretches away far and around us, and Almighty God, for the sustenance of man, annually replenishes it with fish in myriads that cannot be counted, having a commercial value that no man can estimate. The fecundity of the ocean may be estimated by the fact that the roes of thirty codfish annually replace all the fish that are taken by the British, French, and American fishermen on the Banks of Newfoundland. In like manner the schools of mackerel, herring, and of all other fish that swarm in the bays and trim around the shores are replaced year by year. These great storehouses of food can never be exhausted.

But it may be said, does not the free competition which now exists lower the prices? No. Codfish have never been higher in the markets

of the world than they were last summer. Herring are now selling in Baltimore for \$13 a barrel. Thirty years ago I used to buy No. 1 mackerel in Halifax for \$4 a barrel. They now cost \$18 a barrel, and I have seen them selling, since the Reciprocity Treaty was signed, for \$22 a barrel. The reason of this is that, relative to all other employments, fishing is a perilous and poor business, and that, with the progress of settlement and growth of population in all these great States and provinces, to say nothing of the increased consumption in Spain, the Mediterranean, the Brazils, and the West Indies, that all your fishermen and ours can catch will scarcely supply the demand. I placed before the committee a paper, signed by two American merchants carrying on trade in Prince Edward Island, which proves that under the treaty your mackerel fishery has flourished and expanded to an extent unexampled in its former history. Taking two years prior to the existence of the treaty, and contrasting them with the last two years, they show that your mackerel fishery has grown from 250 vessels, measuring 18,150 tons, valued at \$750,000, and manned by 2,750 men, and securing a catch worth \$850,000, to 600 vessels, measuring 54,000 tons, employing 9,000 men, and securing 315,000 barrels, worth \$4,567,500. So with the herring fishery it is equally prosperous. I have seen two American seine boats take 500 barrels of herring, at Baltimore prices worth \$6,500, on the coast of Labrador, in a summer afternoon. The net fishing is also profitable. The bank earns and the mill grinds while the banker and the miller sleep. The fisherman sets his net at night, and finds in the morning that kind Providence, without a miracle, except the "wealth of sea," that standing miracle, has loaded his nets at night with a liberal hand. These fisheries, sir, are sufficient for us all. The French, who are anxious to build up a powerful navy, maintain 10,000 men by their bounties in these North American waters, and it is most creditable to our fishermen, that in the face of these bounties and of yours, that they are able, by strict economy and hardy endurance, to wrestle for a share of these ocean treasures to maintain their families and increase their numbers.

A gentleman asked, But had we not the right to fish on the Banks of Newfoundland before the treaty?

MR. HOWE. Yes; but not in the Great Banks of Newfoundland and along the coast-lines where the people of Newfoundland, who frequent the Banks but little, catch all their codfish. Some of these bays are twenty or thirty miles in width, and deeply indent the island, being broken into numerous fiords or smaller bays, where fish are plenty. By the treaty, American fisherman can now use all these bays, as well as those upon the coasts of Canada, Nova Scotia, New Brunswick, and Prince Edward Island. The command of the inshore fisheries gives to your people the opportunity to supply themselves with bait, whether they resort to the Banks or fish around the coast.

I trust I have shown you, Mr. Chairman, that the fisheries are inexhaustible and of inestimable value; that free competition does not lower the prices, and that your fishermen and the French have special aids to stimulate their industry. But my great objection to the abrogation of the treaty is that it throws open again a wide field of controversy. Who can measure by the eye a mile, even upon the land? And how are your fisherman to measure accurately three marine miles at sea, even in fair weather? In a fog it is impossible to do so. And the naval officers who may be sent down to guard our mutual rights will be as much mystified and puzzled as they were before.

But it may be said that you gave us your inshore fisheries when we

gave you ours. You did, but they were of comparatively little value. This was the objection that we took to the treaty in Nova Scotia, in 1854. Let me illustrate: Suppose a farmer, living on a poor farm, exhausted by successive cropping, were to say to a neighbor having a rich soil in high cultivation, "Let us save fencing and throw our farms into one." That was your proposition, and it was accepted. Now mark the result—that while your vessels have swarmed in our waters for the last nine years, carrying off enormous values every year, we have never sent a vessel south during all that time, or caught a single cargo of fish on the coast or in the bays of the United States.

No. 33.

ROYAL ALFRED, AT BERMUDA,
November 18, 1869.

SIR: I beg to inclose, for the information of the lords commissioners of the Admiralty, the fishery reports from the officers commanding the Dart, Mullet, and Minstrel, which have been employed during the past season in the protection of the fisheries on the coast of New Brunswick, Nova Scotia, Prince Edward, and Cape Breton Islands.

2. The Royalist was dispatched also on this duty, but was recalled early in the season, and sent to re-enforce the squadron at the Bahamas, as reported at the time by my predecessor. The others were also withdrawn for some three or four weeks at the end of August and beginning of September, to attend upon his Royal Highness Prince Arthur, in his visit to the different ports of the Dominion.

3. The steamer Druid, belonging to the Dominion, has been also occasionally employed on the fisheries on the coast of Cape Breton Island, but as she has had to visit periodically the light-houses around Nova Scotia and New Brunswick, very little of her time could be devoted to the fisheries.

4. From the periodical reports of the officers I have extracted the following account of vessels boarded, distinguishing those which had taken out licenses from the Dominion Government, authorizing them to fish within three miles of the shore.

	Dart.	Mullet.	Minstrel.	Total.
Total number boarded.....	141	9	12	162
Number within three-mile limit warned once.....	113	8	10	131
Number within three-mile limit warned more than once.....	18	1	2	19
Licensed.....	10	9	2	12
Not licensed.....	131	9	10	150

5. It therein appears that out of 162 vessels boarded within the limits, only 12, or about 7 per cent., had licensed. It is also plain why this is so. When established the charge was fixed at half a dollar per ton, and a large proportion of vessels took out licenses the first year. Some, however, did not do so, and the fishermen soon discovered that there was little risk of interference or capture, as so few cruisers were employed, and no other efficacious measures were adopted to prevent infraction of the treaty by those not licensed. The fee was then raised to one dollar per ton, and has this year been further raised to two dollars a ton without any increase of vigilance, and the natural result has been that very few licenses have been taken out, and those in fact only

by vessels which, having received a warning, were liable to capture if found fishing again within the three-mile limit.

6. Moreover, in direct violation of the 1st article of the convention of 1818, American vessels are permitted to resort to the harbors not alone for shelter, repairing damages, or for wood and water, but in order to land and deposit their fish on bond, whence it is conveyed to the United States by a regular line of steamers.

7. So far as I am aware, the only measure adopted by the colonial authorities has been the employment of the steamer *Druid*, which, as I have already stated, could not have effected much, as she had other and important duties calling her elsewhere. She occupied also a very anomalous position in not being a man-of-war.

8. The result, therefore, is that the encroachments of American fishing-vessels are practically disregarded by the colonial authorities, and they are actually encouraged by the inhabitants, who derive large profits from supplying their wants at the various ports. Very few colonial vessels are engaged in fishing, owing to the almost prohibitory tariff imposed in the United States on fish imported in colonial vessels, and the colonial fishermen, therefore, in considerable numbers, man the American vessels.

9. The cruising of three or four of Her Majesty's ships to watch lines of coast of several hundred miles in extent can effect but little in preventing encroachment (especially as one warning must be given, and moreover it must be extremely difficult to determine correctly the distance at which a vessel boarded may be from the land), unless they are supplemented by more vigorous measures on the part of the colonial authorities and people, whose interests are, I apprehend, alone affected by this question.

10. I draw attention to the want of action on the part of the colonial authorities not as a matter of complaint, but because it is commonly stated that they are anxious and hope to force the Americans to a renewal of the Reciprocity Treaty, by confining them strictly to their fishing rights, but yet they leave them practically unmolested when they infringe them.

11. I transmit for their lordships' information a letter from the governor-general of the Dominion, inclosing one from Her Majesty's minister at Washington, respecting a threat, on the part of the American fishermen, to resist by arms any interference. A rumor to the same effect appears to have been current on the fishing grounds, but I should not attach any credit to the story. The fishermen know perfectly well the consideration they have received, much beyond what they are entitled to, and they must also be aware that such a proceeding would probably result in the withdrawal of the system of licenses and increased vigilance to prevent encroachment.

12. In conclusion, I would observe that as the American fishermen are all fully aware of the illegality of fishing within the three-mile limit, and of the means which are afforded them by the license system of obtaining the privilege of doing so, the order as to giving them one warning should be abandoned, and the public notice should be given before the next season commences that all vessels, without licenses, found fishing within the limit will be at once captured and sent in for adjudication.

I have, &c.,

G. G. WELLESLEY, *Vice-Admiral*.

THE SECRETARY TO THE ADMIRALTY.

P. S.—I have forwarded a copy of this letter and inclosures to the governor-general of Canada for the information of his government.

No. 34.

[Extract of a report from Commander Cochrane to Vice-Admiral Edward G. Fanshaive, Commander-in-Chief.]

HER MAJESTY'S GUNBOAT BRITOMART,
At Halifax, June 18, 1870.

Mr. Best, the fishing warden at Beaver Harbor, New Brunswick, informed me that he often saw twenty or thirty American vessels fishing; but he has no boat at his disposal or any means of preventing it, though he has occasionally been able to seize their nets when set very close to shore.

No. 35.

CONSULATE OF THE UNITED STATES OF AMERICA,
At Halifax, Nova Scotia, August 30, 1870.

SIR: I perceive it is stated in one of the morning papers of this city that an order has been transmitted from the Canadian authorities prohibiting American fishing-vessels from obtaining any supplies in the ports of the British North American Provinces.

If any such order has been received by your excellency, will you be kind enough to furnish me with a copy thereof?

I have the honor to be, sir, your obedient servant,

M. M. JACKSON,
United States Consul.

His Excellency Vice-Admiral
GEORGE GRENVILLE WELLESLEY, C. B., &c., &c.

No. 36.

ROYAL ALFRED, HALIFAX, August 31, 1870.

SIR: I have the honor to acknowledge the receipt of your letter of yesterday's date, and to inform you in reply that I have not seen the statement in the morning papers alluded to; and as such order would probably have been addressed by the Dominion Government to its own officers I can only suggest that an application should be made to the Dominion Government for the information required.

I have, &c.,

GEO. G. WELLESLEY,
Vice-Admiral.

His Honor JUDGE JACKSON,
United States Consul, Halifax.

No. 37.

CONSULATE OF THE UNITED STATES OF AMERICA,
Halifax, Nova Scotia, September 1, 1870.

SIR: I have the honor to acknowledge the receipt of your communication of yesterday, suggesting an application to the Dominion authorities for the information which I requested.

I addressed you under the impression that the Imperial and Dominion authorities were co-operating, and acting under the same orders, regulations, and instructions in reference to all matters connected with the protection of the inshore fisheries. As American fishermen are almost daily visiting this port on their way to the fishing banks, it becomes a matter of great importance to them to know whether any orders have been issued by your excellency, as the representative of the Imperial Government, to prevent them from getting such supplies as have been customary, both before and since the treaty of 1818, in all the ports of the British North American Provinces.

Since addressing you I have understood that the commanders of Her Majesty's vessels, acting under the authority of your excellency, have notified American fishermen bound to the fishing banks that they would not be permitted to procure ice or other supplies in any of the colonial ports, and that any attempt to procure such supplies would subject their vessels and cargoes to seizure and confiscation. As consul of the United States, I am frequently applied to by American citizens engaged in the deep-sea fisheries for information on this subject.

To enable me to give such information, I have respectfully to request you to furnish me with copies of any orders issued by your excellency in relation to supplies to American fishermen.

I have the honor to be, sir, your obedient servant,

M. M. JACKSON,
United States Consul.

His Excellency, Vice-Admiral GEO. GRENVILLE WELLESBY, C. B.,
Esq., &c.

No. 38.

ROYAL ALFRED,
At Halifax, September 3, 1870.

SIR: I have the honor to acknowledge the receipt of your letter of yesterday's date, in which you request me to furnish you with copies of any orders I have issued in relation to supplies to American fishermen; and in reply to state that copies of my instructions to officers under my orders were transmitted to Her Majesty's minister at Washington, and were by him communicated by the orders of Her Majesty's Government to the United States Secretary of State.

Although it is not within the scope of my authority to furnish you with these documents, I may state in general terms, which will probably be sufficient for the purpose you have in view, that the duty enjoined on the commanding officers of Her Majesty's ships is to prevent any infringement of the arrangement agreed on between the two governments in respect of the fisheries in the treaty of 1818.

That treaty expressly defines the purposes for which alone United States fishing-vessels are to be allowed to enter ports within certain limits. The words used are as follows: "Provided, however, that the American fishermen shall be admitted to enter such bays or harbors for the purpose of shelter and of repairing damages therein, of purchasing wood and of obtaining water, and for no other purpose whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying, and curing fish therein, or in any other manner whatever abusing the privileges hereby reserved to them."

It appears to me that the expression "for no other purpose whatever" excludes them from procuring ice, bait, and other supplies; and the offi-

cers have therefore, in my judgment, properly notified fishermen against any attempt to infringe the treaty, and by so doing also disobey the British and colonial laws in reference thereto, in which the very same terms are used.

I have, &c.,

GEO. G. WELLESLEY,
Vice-Admiral.

His Honor Judge JACKSON,
United States Consul, Halifax.

No. 39.

Captain Hardinge to Vice-Admiral Wellesley.

VALOROUS, HALIFAX, *September 17, 1870.*

SIR: Agreeably to article 3 of your instructions, dated 3d May last, I have the honor to make the following report:

Owing to the seizure of the schooner *S. G. Marshall*, on the 31st July, the ship has been much detained at Charlotte Town in prosecuting her to condemnation.

In consequence of the evidence obtained of various vessels in the employ of and belonging to Mr. J. C. Hall, an American citizen, doing business in Charlotte Town, being illegally registered, and wearing English colors, to enable them to prosecute the inshore fishery, my attention has been greatly given to the detection of these irregular vessels. The presence of a ship of war at Charlotte Town, I consider, would be of great assistance in exercising supervision and checking these frauds on the statutes.

This port, being on no fishing station, is rarely visited, and, in consequence, the officials, to whom it was my duty to apply, were unable to render me the assistance I required.

In exercising a supervision over the shipping here, which is much wanted owing to the class of persons who form the customs authorities, and who here are appointed solely from political reasons, the irregular vessels would in time be suppressed.

It must be remembered that these irregularly-owned vessels are fitted out to obtain their cargoes in a short space of time, *e. g.*, the *S. G. Marshall* had on board two seines, one of 200 fathoms long and 18 feet deep, the other 100 fathoms in length and 12 feet in depth. The cost of the first one was about 400*l.*, the smaller one about 200*l.* In addition she had four boats.

In evidence, the master stated that if he had remained where he was taken he would have filled his vessel in forty-eight hours.

With regard to the fishery on No. 6 station, I have, owing to the limited space of time actively employed, but little to record.

The cod-fishery was a good average catch from the Bay of Chaleur along the coast to Peter Point.

The mackerel fishery was hardly an average, if the American fishermen are to be believed. The English vessels made good catches off Bathurst and other places close to the shore where the fish schooled.

By this, I do not mean it to be inferred that the American fishermen do not fish inside the limit and share in all the advantages of the inshore fishery.

I have seen as many as thirteen vessels at one moment fishing close inshore, but of course the whole were outside the limit before they could be approached. The inhabitants of Port Daniel complained that, prior to this season, the Americans were in the habit of hauling their seines in the bay, greatly to the loss and impoverishment of the inhabitants.

The inhabitants of Gaspé Basin and the neighborhood complained of the behavior of an American, Mr. Ebenezer Marshall, of the schooner S. T. Marshall, last year. They stated that he hauled his large seines on Sandy Beach, forming the harbor, and had brought to land large numbers of young codfish, which were useless to him.

The spot always had been a favorite breeding-place for the cod, and they feared that its character would be totally changed, and great loss to them ensue, if that practice was pursued.

They also stated that they feared the mackerel would avoid the bay for a season if the seining was persisted in.

With regard to the best method of protecting the fisheries during the ensuing season, I beg to make this suggestion :

That in the Gulf of St. Lawrence the stations 4, 5, and 6 be placed under a senior officer, so that any one of the cruisers under the altered system might be able to refer any question or difficulty to him. The senior officer would then be able to clear up questions, and explain matters of a delicate character, on the spot. He also would be able to relieve the cruiser, in the event of a capture having been made by her, by receiving the necessary witnesses on board, instead of the capturing ship being kept off her station for a length of time.

The fact of being able to communicate on the spot with a superior immediately engaged in the same duty would naturally strengthen the position of those engaged in an arduous duty of the character for the first time, and lessen the isolation now experienced.

In my opinion, it requires a personal acquaintance with those engaged in the fisheries, and also a knowledge of the class of officials met with, to be able to detect the subtleties to which they have recourse in order to gain their ends.

With respect to the Dominion cruisers, and their fitness for the duty required of them, I am prompted to make the following remarks :

Of those which I have fallen in with, the *Ella T. Maclean* draws too much water to be a serviceable cruiser.

The *England* is too indifferent a sailer to be of much service.

I observe that I have omitted to mention that the master of the S. T. Marshall last year, and complained of to me, is the same Ebenezer Marshall in command of her when captured.

I have, &c.,

E. HARDINGE.

No. 40.

[Extract of a despatch from Captain Phillimore to Vice-Admiral Fanshawe.]

SPHINX, HALIFAX, *November 15, 1870.*

SIR : With reference to Article III of the fishery restrictions, I have to inform you that the most plentiful sorts of fish on the western coast of the Gulf of Saint Lawrence are salmon, cod, ling, mackerel, and herring ; and the best baits that are used for catching them are small

kinds of fish, which are easily obtained by dragging those parts of rivers which become small pools at low water.

Salmon, cod, and ling are found at the mouths of rivers where these boats are, and in about the same proportion of number.

Mackerel and herring naturally come into shallow water at certain seasons to spawn, and are then in the best condition for human food; but they can be enticed, and very easily, if along a bank, to more than three miles from the coast, and then caught there by a vessel standing out to sea, and throwing overboard large quantities of bait as she goes along.

These fish are cured and packed on board the fishing vessels directly they are caught, it being necessary to do so in order to preserve them.

As the nearest principal markets for the sale of fish are New York and Boston, and as there is a tax in the United States on fish landed from British vessels, but none from American, and as fish are more plentiful near the coast, it follows that the fishing business on this coast is most profitable when it can be carried on close to the shore, and under American colors. Also, as fishing is apparently most profitable under American colors, and there is an American law which prevents a British-built ship from ever being able to sail under American colors, it follows that the shipbuilders in the United States have a better market for their fishing schooners than the British. On the other hand, it is a disadvantage to the United States Government for vessels to fish under their flag, for they lose the tax which they would get were the fish to be landed at their seaports from British vessels instead of American.

The residents about the coast of the Gulf of St. Lawrence have informed me that their inshore fishing this season has been good, and that they attribute this in a great measure to the American fishing schooners having been kept off the coast. Large numbers of these schooners have been fishing in the Gulf of St. Lawrence this year, and have been frequently seen doing so within three miles of the coast, notwithstanding the precautions that have been taken to prevent them. These fishing schooners generally go about in fleets, and their crews are made up of a mixture of all nations, with but a few *bona fide* Americans among them. These men receive no wages, but a certain share of the proceeds of the sale of the fish caught during the

No. 41.

[Extract from a letter from Commander Knowles, of Her Majesty's ship *Lapwing* (No. 10 A), dated 7th November, 1870, addressed to Vice-Admiral Fawcshawe, commander-in-chief.]

PORT HOOD.

2. The inshore fishing in the vicinity of the port has by all accounts been far above the average, the mackerel coming in through the Gut of Canso about the commencement of June, when there was an immense catch in this harbor; they then went northward toward East Point, and off Sea-Wolf Island and Chettican.

The herring fishery here has been excellent; the summer herrings came in in July, the fall herrings for three nights in September, and I believe that as much as ten thousand barrels were caught off Henry Island and outside Smith's Island.

The cod fishery here has not been remarkable.

This port seems to be a great harbor of refuge for the American schooners ; about fifty of them were frequently at anchor at a time, and previous to the treaty large supplies were obtained from the storekeepers on shore, but owing to the constant presence of a man-of-war the traders now derive but little if any profit.

The general feeling here is that the abrogation of the license system and stringent manner in which the laws have been enforced have had the effect of greatly improving the catch of the inshore and coast fishermen.

N. B.—Although, as will have been observed, some of the foregoing correspondence appears in the form of extracts, the selections so made have been introduced in their present shape simply for the sake of brevity ; and to avoid wearying the attention of the Commissioners with matters irrelevant to the present inquiry.

No. 42.

Revised schedule of vessels seized by Imperial and Canadian cruisers for violation of the fishery and revenue laws during the current season to date, December 14, 1870.

Name of vessel.	Tonnage.	Name of master or owner.	Place of ownership.	Date of seizure.	Place of seizure and distance of locality from shore.	Whether hovering, at anchor, or trading, actively fishing, having fished, or preparing to fish.	When and how tried, and with what result, and if defended by counsel.	By whom seizure was made.
Wampatuck ...	Tons 40	Mr. Goodwin	Plymouth, U. S.	1870. June 27	About 1½ miles from the shore, off the north shore of Aspy Bay, N. S.	Actively fishing; the men on board in the act of hauling in their lines.	Condemned by vice-admiralty court at Halifax.	Jas. A. Tory, schooner Ida E.
J. H. Nickerson	70	Mr. McDonald	Salem, Mass., U. S.	June 30	Within three cables' length from shore, on east side of Bay of Ingomish, N. S., and immediately inside of Logomish Island.	At anchor preparing to fish, and a quantity of fresh caught herring in the hold; taken on the spot, having been previously warned off.	Vice-admiralty court, Halifax; still pending; counsel retained in defense.	Do.
Minnie Lettie,	57	Mr. Campbell Owner, Mr. McGowan; master, Mr. Beaman.	Halifax, N. S. Prince Edward Island.	July 28 Aug. 18	Aspy Bay, N. S. Half a mile off the light inside Gaspe Harbor, Province of Quebec.	Smuggling Fishing seven days in Gaspe Harbor, and preparing to fish at time of seizure.	do In course of litigation in courts of New Brunswick.	Do. H. E. Betts, schooner Ella G. McLean.
Lizzie A. Tarr ..	63	Messrs. Tarr Brothers.	Gloucester, Mass., U. S. Aug. 27	Aug. 27	St. Margaret's Bay, north shore, Gulf of St. Lawrence, Province of Quebec, 350 yards from shore.	At anchor, lines set, on which were six halibut.	Tried at Quebec in vice-admiralty court; condemned and sold.	N. Lavoie, schooner La Canadienne.
A. H. Wenson....	63	Mr. Webber.....	do	Sept. 3	Less than 2 miles south of Seawolf Island, and within 3 miles of shore of Cape Breton, N. S.	Throwing out bait, and crew casting their fishing-lines.	Vice-admiralty court, Halifax; still pending; counsel retained in defense.	J. E. C. Carmichael, schooner Sweep-stake.
H. B. Lewis.....	31	Mr. Watson	Halifax, N. S.	Sept. 17	Under Henry Island, near Port Hood, N. S.	Smuggling	do	Do.
A. J. Franklin ..	.....	Mr. Naas	Gloucester, Mass., U. S. Oct. 15	Oct. 15	Within two miles of shore, at Broad Cove, Cape Breton, N. S.	Having fished in the cove, and actually found with mackerel wet and dripping, and hooks baited with fresh bait; also fresh fish-blood and mackerel offals on deck	Vice-admiralty court, Halifax; still pending.	Jas. A. Tory, schooner Ida E.

Grinnalia.....	.....	Provincetown, Mass., U. S.	Oct. 25	.....	.....	Taken to Halifax for adjudication; still in process.	Do.
Romp.....	Mr. Oliver.....	Eastport, Maine, U. S.	Nov. 8	Back Bay, Oliver's Wharf, County Charlotte, N. B.	Having fished at Three Islands, Grand Manan.	In course of litigation in courts of New Brunswick.	Albert Betts, schooner Water Lily.
White Fawn...	64 Mr. Marshall.....	Gloucester, Mass., U. S.	Nov. 25	Head Harbor, Campo Bello.	Preparing to fish at Head Harbor, Campo Bello.	Taken to St. John for adjudication.	Do.
S. G. Marshall..	.....	.....	.....	.....	.....	.....	H. M. S. Valorous.
Albert.....	.....	.....	.....	.....	.....	.....	Do.
Clara F. Friend	.....	.....	.....	.....	.....	.....	H. M. S. Plover.

*So named on register, but the ship's articles give the names J. C. Hall, owner, and William Hearn, master. Also, violation of 103d section of the merchant shipping act.

W. F. WHITCHER.

For the Minister of Marine and Fisheries.

DEPARTMENT OF MARINE AND FISHERIES (FISHERIES BRANCH), OTTAWA, December 14, 1870.

No. 43.

List of fishing-vessels boarded on fishery stations Nos. 4 and 5 between the 25th of July, 1870, and 21st of October, 1870.

Where boarded.	Date.	Name of vessel.	Under what colors.	Owner.	Master.	Port belonging.	For what purpose boarded.	Remarks.
East point of Prince Edward Island.	1870. July 26	Three Brothers	English	McDonald	McDonald	Ragged Island, N. S.	To obtain information.	
Do.	July 26	Lark	do	Abriel	Abriel	Halifax	do	
Do.	July 26	Catherine	do	Gerrid	Gerrid	do	do	
Do.	July 26	Gipsy Lass	do	McDonald	McDonald	Liverpool, N. S.	do	
Do.	July 26	Le Justine	French	Justine	Justine	St. Pierre Island	To warn not to fish within prescribed limits.	
Do.	July 26	Clapeause	do	Cherrie	Cherrie	do	do	
Do.	July 31	Arrow	English	McDonald	McDonald	Georgetown	For information.	
Do.	July 31	Safe Guide	do	Prowell	Prowell	Shelburne	do	
Off Tracadie	Aug. 2	Murtha Pike	American	Buritt	Howard	Newbury, Mass.	At anchor within three miles of land.	In for shelter.
Do.	Aug. 2	Palm	do	Ireland	Tobin	do	do	Do.
Do.	Aug. 2	William Parsons	do	Parsons	McMillan	Gloucester	do	Do.
Do.	Aug. 2	British Eagle	English	Cook	Collins	Cape Canso	For information.	Do.
Do.	Aug. 2	Elizabeth Ann	do	Hall	Bears	Charlottetown	do	Do.
Off Richmond	Aug. 3	T. W. Read	American	Steinson	Steinson	Ewans Island	At anchor within three miles	Do.
Do.	Aug. 3	Sancti Known	do	Parsons	Parsons	Booth Bay	do	Do.
Do.	Aug. 3	Forty Lewis	do	Houghton	Sweet	do	do	Do.
Richmond	Aug. 3	Fountain	English	Hall	Lord	In Richmond Harbor	For information.	In for repairs.
North Cape	Aug. 5	Collector	American	Webb	Robins	Charlottetown	At anchor three miles off the land.	Do.

No. 43.—List of fishing-vessels boarded on fishery stations Nos. 4 and 5 between the 25th of July, 1870, and 21st of October, 1870.—Continued.

Where boarded.	Date.	Name of vessel.	Under what colors.	Owner.	Master.	Port belonging.	For what purpose boarded.	Remarks.
Cascapine	1870.							
Do	Aug. 6	Clara F. Friend	American	Charles Friend	Thomas Grady	Gloucester	Shipping fish barrels	In for water.
Do	Aug. 6	Ohio	do	Delaine	Delaine	Verona	At anchor in harbor	Do.
Long Point	Aug. 10	Union	English	Mitchell	Mitchell	Hablas	For information	Do.
Do	Aug. 11	Marie Louise	American	Sayward	Hanilton	Gloucester	At anchor in the harbor	Do.
Do	Aug. 11	Lively Yankee	do	do	do	do	do	Do.
Georgetown	Aug. 11	Laura Mangen	do	George Marsh	William Collins	do	At anchor in Georgetown Harbor.	Do.
Do	Aug. 11	Island Queen	do	John Collins	do	do	do	Do.
Do	Aug. 14	Annie Sargent	do	Kembell	Sweet	Booth Bay	do	Do.
Do	Aug. 14	Ohio	do	Delaine	Delaine	Verona, Mass.	do	In for repairs.
Cape George	Aug. 15	Freedom	English	Webb	Christolen	Harbour Boucho	For information	In for water.
Port Hood	Aug. 16	Carys S. Duglo	American	William Parsons	Charles Duglo	Gloucester	At anchor off Port Hood	In for water.
Do	Aug. 16	William Poyama	do	do	McMillan	do	do	In for shelter.
Do	Aug. 16	Geo. F. McEllan	do	George Keane	William Keane	Bremen, Mo	do	In for wood.
Do	Aug. 16	Amos Cutter	do	Dodd & Tar	Griffin	Gloucester	do	In for shelter.
Do	Aug. 16	Zoo Kohila	do	Freeman Brad	Francis Road	Booth Bay	do	Shelter and water.
Do	Aug. 16	Joseph O.	do	Proctor	Daniels	Gloucester	do	In for water.
Wolf Island	Aug. 17	Electric Tamartha	English	Whitman	Phillips	Cape Fauso	For information	In for shelter.
Do	Aug. 17	Harriet Queen	American	David Loan	Ryn	Gloucester	At anchor inside Wolf Island	Do.
Georgetown	Aug. 21	Island Queen	do	Pence	Doutan	Booth Bay	At anchor, Georgetown	In for shelter and water.
Do	Aug. 21	Allen Louis	do	Lewis	do	do	At anchor in Georgetown Harbor.	Do.
Do	Aug. 21	Waterfall	do	Cameron	Achal	Southport, Mo	do	In for water.
Do	Aug. 21	Amos Cutter	do	Dodd & Tar	Gronif	Gloucester	do	Do.
Do	Aug. 21	W. H. Raymond	do	Dennis & Cloyer	do	do	do	In for shelter.
Do	Aug. 21	Morning Star	do	Crawford	Brophy	Easton, Mo	do	In for water.
Do	Aug. 21	Vinila	do	do	Eden	do	do	Do.
Off Colville River	Aug. 21	Ocean Ranger	do	William Parsons	Thomas Parsons	Gloucester	At anchor off Colville River	Do.
Do	Aug. 24	Annie Freeman	do	McKean	Bower	Booth Bay	do	Do.
Georgetown	Aug. 24	Energy	do	Charles Pauchant	Walch	Gloucester	At anchor in Georgetown Harbor.	Do.
Do	Aug. 29	Amateur	English	McDonald	Grenif	Georgetown	do	For information.
Do	Sept. 3	Harry Bluff	American	Brown	Phillips	Salem, Mass.	do	For water.
Do	Sept. 3	Little Hugly	English	Tusley	Emis	Antigonish, N. S.	do	For information.
Do	Sept. 5	James Tar	American	Dodd & Tar	Kenzie	Gloucester	do	For shelter.
Do	Sept. 5	J. W. Broad	do	Ed. Burham	Howard	Newbury	do	For repairs.
Do	Sept. 5	Wildfire	do	Bense	Kenzie	Gloucester	do	For shelter.
Do	Sept. 5	Willie Baker	do	Purse	Purse	do	do	Do.
Do	Sept. 5	Sedagarna	do	Ferland	Reyant	do	do	Do.
Do	Sept. 5	Willie Pugh	do	John Clarke	Morrison	do	do	Do.
Off East Point	Sept. 6	Willie Raymond	do	Dennis	Grenif	do	At anchor off East Point	Do.
Do	Sept. 6	Lalakerbo	do	do	Smith	do	do	Do.
Georgetown	Sept. 14	River Dale	do	Maddox	Murphy	do	At anchor in Georgetown Harbor.	For shelter and repair.

Do.	Sept. 14	Jas. E. Tar.	do	Dodd & Tar	Kennie	do	do	do	Do.
Do.	Sept. 14	Right Bow.	do	Pattinall.	Orborne	Salem.	do	do	Do.
Do.	Sept. 14	Sen Queen	do	Layton	Morse	Gloucester	do	do	Do.
Do.	Sept. 14	Lay A. Dodd.	do	do	Malada	do	do	do	Do.
Do.	Sept. 14	Colonel Cork	do	do	Bears	do	do	do	Do.
Do.	Sept. 14	Restless	do	Clark	Bailey	do	do	do	For shelter.
Do.	Sept. 14	Isaac Rich.	do	Walen	Bayant	Salem	do	do	Do.
Do.	Sept. 14	Martha Pike	do	Burrill	Howard	Newbury	do	do	Do.
Do.	Sept. 14	Artie	do	Hodges	Hodges	Forbay, W. S.	do	do	For information.
Do.	Sept. 17	Mad Waska	English.	Tupper	Tupper	Gloucester	do	do	For shelter.
Do.	Sept. 17	Chas. Helvitt	do	do	Cees	do	At anchor in Richmond Bay	do	Do.
Do.	Sept. 17	Chas. Haskell.	do	Samuel Haskell.	Davis	do	do	do	Do.
Do.	Sept. 19	Farmer Son.	do	S. S. Day	Hilt	do	do	do	Do.
Do.	Sept. 19	J. J. Bower	do	Denison	Gitchill	do	do	do	Do.
Do.	Sept. 19	Newanley	do	W. Laurance	Bryant.	do	do	do	Do.
Do.	Sept. 19	Juno	do	Hardy	W. Laurance	Barged Island	do	At single anchor in Richmond Bay.	For information.
Do.	Sept. 19	A. P. Dennis	American.	Cunningham	Johnson	do	do	do	For shelter.
Do.	Sept. 19	Wascomada	do	R. T. Tupper	T. T. Tupper	Gloucester	do	do	Do.
Do.	Sept. 18	Ripple	English.	E. Lindsay	T. Haslar	do	do	do	For information.
Do.	Sept. 18	Thos. Fish	American.	Long	Hamilton	Lunenburg, U. S.	do	do	For shelter.
Do.	Sept. 19	Ocacia	English.	Owens	Patterson	Georgetown	do	do	For information.
Do.	Sept. 19	Shoo Fly.	do	Ogden	Ogden	Metway, U. S.	do	do	Do.
Do.	Sept. 19	Lucilla Curtis	American	Braw & Bro.	McPherson	Gloucester	do	do	For shelter.
Do.	Sept. 19	Sea Queen	do	Leiguton	B. Nass	do	do	do	Do.
Do.	Sept. 25	Busby William.	English.	Zinc	Zinc	Mahon Bay, U. S.	do	At anchor off Georgetown.	For information.
Do.	Sept. 25	Isaac Rich.	American.	Warden	Bryant	Salem	do	do	In for water.
Do.	Sept. 25	American Eagle.	do	Hamilton	Stapleton	do	do	do	Do.
Do.	Sept. 25	Toxinity	do	Braw & Co.	Powers	Gloucester	do	do	In for shelter and repairs.
Do.	Sept. 25	Joseph Allan	do	Maddox	McLean	do	do	do	Do.
Do.	Sept. 25	Waterfall	do	Cameron	Orchard	South Port, Me	do	do	Do.
Do.	Sept. 25	Tinilia	do	Crawford	Eden	Castine, Me	do	At anchor, Georgetown.	In for shelter.
Do.	Sept. 29	Ocean Ranger	do	Parsons	Parsons	Gloucester	do	At anchor off Souris.	In for provisions.
Do.	Sept. 29	Gettysburgh.	do	Pool	Stewart	do	do	do	In for shelter.
Do.	Sept. 29	Margaret	do	Parkins	Fanan	do	do	do	Do.
Do.	Sept. 29	Sargent S. Way	do	Haely	Day	do	do	do	Do.
Do.	Sept. 29	Wildfire	do	Barso	Thain	do	do	do	Do.
Do.	Sept. 29	Harriet Tamartha	do	Low	Ryan	do	do	do	Do.
Do.	Sept. 29	Energy	do	Parks	Welsh	do	do	do	Do.
Do.	Sept. 29	A. Packard	English.	Packard	Belanger	Amherst, Mag. Island	do	For information.	Do.
Do.	Sept. 29	Safe Guide	do	Prowell	Prowell	Shelburne	do	do	Detained.
Do.	Sept. 30	Clara F. Friend.	American	Chas. Friend	Thomas Grady	Gloucester	do	Fishing within the boundary	Released.
Do.	Sept. 30	Gettysburgh.	do	Pool	Stewart	do	do	do	Do.
Do.	Sept. 30	Safe Guide.	English.	Prowell	Prowell	Shelburne	do	For information.	Do.
Do.	Oct. 16	Chas. Helrital.	American.	Tupper	Cees	Gloucester	do	At anchor, Georgetown.	Do.

* Reports all American vessels, with exception of a few seen fishing off Cape Breton, left station, just leaving for United States; reports nearly all American vessels gone.

Her Majesty's Steamer Plover,
Charlottetown, P. E. I., October 21, 1870.

JAMES A. POLAND, Commander.

No. 44.

List of foreign vessels boarded within three miles of the land by Her Majesty's ships on the coasts of Prince Edward's Island during the fishing season of 1872.

[illegible]

18	do	H. W. Pierce	B. Pierce	do	40	Aug. 10 to 18	Off P. E. Island.	
18	do	Ed. S. Nowcomb	Higgins	do	Fair	Only 2 days out	do	
18	do	Sarah E. Smith	Ambrase Snow	do	100	21 weeks	do	Can stow 50 barrels more when full will turn.
18	do	Marla Webster	Caleb B. Rich	do	280	July 4 to Aug. 18	do	Can stow 120 barrels more.
18	do	Edw. H. Norton	E. R. Attwood	do	112	21 weeks	do	Can stow 325 barrels more.
18	do	Nellie N. Snow	J. Snow	do	120	2 weeks	do	Do.
18	do	Gertel Summers	N. S. Snow	do	100	1 week	do	Can stow 350 barrels more.
18	do	B. S. Young	J. S. Lee	do	50	July 8 to Aug. 18	Off East Point & Cardigan Bay.	
18	do	G. A. Lewis	G. Rich	Provincetown	Fair	2 weeks	Off P. E. Island.	
18	do	Arcola	A. C. Freeman	do	40	9 weeks	do	
18	do	Willie Washburne	H. Cook	do	130	July 1 to Aug. 18	Different places	
18	do	Terese D. Barker	Parsons	do	275	Aug. 1 to 18	E. P. & Mabou	
18	do	Della Hodgkins	J. Carberry	do	180	Aug. 10 to 18	Off P. E. Island.	2d trip transhipped first cargo at Boston.
18	do	Lizzie Hammond	S. Rich	do	100	3 weeks	do	Transhipped fish in Gut of Canso.
18	do	Helen M. Crosby	J. Crosby	Boston	55	1 week	do	
18	do	Glad Tidings	Ed. Freeman	do	100	July 27 to Aug. 18	Mag. Islands, &c	
18	do	Emmie Rich	Pierce	do	15	July 17 to Aug. 18	do	
Sept. 15	do	John M. Ball	Isaac Collett	do	140	2 weeks	do	Will stow 50 barrels more and return home.
Aug. 18	Georgetown	Angie S. Friend	A. Emery	Gloucester	250	July 3 to Aug. 18	do	Will stow 70 barrels more; has been cod-fishing off American coast.
18	do	Star of the East	J. M. Bearse	do	205	2 weeks	do	Has been fishing off American coast
18	do	Charger	D. Lowe & Co	do	60	July 27 to Aug. 18	Off P. E. Island.	Will stow 55 barrels more and return home.
18	do	Royal Arch	D. C. & H. Ballson	do	225	July 3 to Aug. 18	do	
18	do	Addem Story	J. B. Rowe	do	140	1 day	Off P. E. Island.	Second trip.
21	Casumpeque	Montana	James Rowe	do				
22	do	White Fawn	George Friend	do				
22	do	Bay Star	L. McPherson	do				
27	Cow River	Chas. C. Dams	Leighton & Co	do				
28	Scoria	W. Parsons	D. Steward	do				
29	do	Illeg. A. Johnson	C. Doyle	do				
Sept. 12	do	Knights Templar	John McLennan	do				
do	do	Patfinder	James Steele	do				
do	do	Star of the East	Ed. Stapleton	do				
do	do	Star of the East	R. J. Reeves	do				

* Vessels boarded by H. M. S. Cherub.

No. 14—List of foreign vessels boarded within three miles of land by Her Majesty's ships, &c.—Continued.

Boat	Where.	Vessel	Owner.	Master.	Port, belong- ing to.	Time.	Where caught.	Remarks.
Sept. 15	Souris	Emme R.	David Allen	Garham Parsons	Gloucester	165	5 weeks	Different places
16	do	Barter	And w Leighton	C. McPherson	do	210	7 weeks	do
17	do	Chas. E. Daniels	G. H. Smith & Co	C. H. Smith	do	70	2 weeks	Off P. E. Island
18	do	Miss J. Dana	Leonard Whaling	C. H. Oster	do	240	8 weeks	Different places
19	do	Laurel	Pettengill & Cun- ingham.	P. Johnson	do	300	Sept. 2 to Oct. 14	do
19	Georgetown	Laurel	A. Wells	R. Allen	do	200	8 weeks	do
19	do	Hattie West	Shute & Co.	R. Hurlbert	do	210	do	do
19	do	Enola C.	Smith & Co	L. Cunnigham	do	130	4 weeks	do
19	do	Wm. Sutton	G. Clark	L. Hobbes	do	200	do	do
19	do	Kath. Graves	Clarke & Soanes	William Gould	do	100	do	do
Oct. 14	do	Electric Fish	Dennis & Ayers	J. McDonald	do	150	do	do
14	do	Charles C. Dame	D. Sayward	C. D. Beverage	do	225	do	do
14	do	J. V. Allen	M. d. o. x. and Knowles.	John Scott	do	250	do	do
14	do	Joseph O.	James Proctor	J. Daniels	do	125	Aug. 1 to 18	Magdalen Isl'ds and P. E. Island
Aug. 29	Souris	Nevada	Lewis McDonald	Leo, Gillis	North Haven	70	Aug. 21 to Sept. 18	Different places
Sept. 15	do	Fleetwood	William Banks	William Banks	do	230	5 weeks	do
Oct. 14	Georgetown	Annie Lewis	Seth Webb	A. Webb	Deer Isle	430	do	do
Aug. 18	do	Lola	W. A. Webb	C. Sawyer	do	200	Aug. 1 to 18	do
19	do	Helen M. Foster	Pitman & Co.	J. Cass	Marblehead	100	1 week	do
19	do	Julia	E. Smith & Son	John McKilliam	Colliasset	19	1 week	do
Sept. 18	do	Geo. McLennan	Currie & Co.	Cheney	Newburyport	400	do	do
Aug. 4	Cascampegue	John Yewett	G. F. Keene	H. Coombes	Bremen			
Oct. 14	Richmond	Thomas Fitch	H. Coombes	E. Pettigrew	Belfast			
Sept. 15	Souris	John W. Roberts	G. M. Long	E. Thompson	New London			
19	do	Edw. Daisley	J. W. Bradley	M. B. Tower	Rockport			
Aug. 18	Georgetown	Diploma	Isaac Rich	Thomas Parsons	do			
19	do	General Grant	Hodson	Pinkman	Booth Bay			
18	do	Gertie Lewis	McDougall & Co.	S. Hindson	do			
18	do	Young Sultan	Isaac Barrow	Manston Barrow	do			
Sept. 15	Souris	Charles A. Koper	E. C. Pettengill	H. F. Kirby	Salem			

To make inquiries and warn when necessary.

United States.

AWARD OF THE FISHERY COMMISSION.

1507

15	do	Belle	do	George Reid	do	C. & M.	300
16	do	Charles Shearer	Pettingill & Co.	M. Kinney	do	6 weeks	Different places
17	do	Isaac Rich	do	T. Bryant	do	9 weeks	do
18	do	Mary Snow	J. A. Freeman	C. Sullivan	Truro, Mass	8 weeks	do
18	do	Highland Chief	Elisha Cobb	J. A. Freeman	do		
29	do	Laura T. Chester	Rich	E. Cobb	do	5 weeks	Off P. E. Island
18	do	Grace Darling	Studson	J. Pack	Camden	4 weeks	Different places
18	do	Ceylon	David Fernald	David Fernald	do	5 weeks	Off P. E. Island
18	do	Yankee Maid	J. & B. C. Adams	T. P. Webster	do		
18	do	Carrie J. Crosby	J. N. Crosby	V. W. Crosby	Orleans	2 weeks	
18	do	Corporal Trim	Samuel Mayo	Samuel Mayo	do	3 weeks	
18	do	Fanny Nye	A. A. Kings	Land	Hingham	Aug 10 to 18	
18	do	G. M. Hopkins	A. Nye	Rich	do	July 1 to Aug. 10	
					do		Different places
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List of United States fishing-vessels in the waters of Prince Edward Island, distinguished but not boarded by Her Majesty's ships, in 1872.

Vessel.	Port.	Vessel.	Port.
John Green	Gloucester.	Flynn Gascup	Gloucester.
Carolina	Do.	John Shearer	Do.
Roughlight	Do.	Eldorado	Do.
Abbey Heathcote	Do.	C. E. Satward	Do.
D. H. Mossnoid	Do.	Alice M. Gould	Portland.
Charley Colfax	Do.	Wm. Fisher	Do.
Edward Evelyn	Do.	Evada	Do.
Fido	Do.	Columbia	Deer Isle.
Fugle Curtis	Do.	Columbine	Do.
Golden Eagle	Do.	Golden Eagle	Do.
Agnes M.	Do.	Silver Moon	Southport.
Financier	Do.	W. A. Ferrall	Do.
Foxhound	Do.	E. F. Millard	Do.
Mossnoid	Do.	J. P. Nickerson	Wellfleet.
W. A. Gould	Do.	R. J. Evans	Do.
Sea Sparrow	Do.	Queen of the Lake	Boston.
Sarah H. Cressy	Do.	General Grant	Do.
Maria Tatt	Do.	Kate McClintock	Booth Bay.
B. H. Smith	Do.	D. Jones	Do.
Joseph Stacey	Do.	John Nye	Hingham.
Cardwell	Do.	Elighton	Do.
Argate	Do.	Eva Mary	Belfast.
C. Cook	Do.	Thellasmala	Do.
E. J. Williams	Do.	Antelope	Newport.
Laura A. Dodd	Do.	John Gerrard	Newburyport.
Greyhound	Do.	Rosannah	Salem.
George Steele	Do.	Lizzie Williams	Camden.
Catalina	Do.	Howard	Shelburne.
F. W. Pownley	Do.	Albert Smith	Cohasset.
G. H. Robertson	Do.	Webster	Cape Porpoise.
Sylvia	Do.		

APPENDIX I.

NEWFOUNDLAND,

St. John's, to wit:

JAMES S. HAYWARD, of St. John's, aforesaid, assistant collector of Her Majesty's customs, maketh oath and saith: That the statement hereto annexed, showing the quantity and value of the products therein referred to, exported and imported by the colony of Newfoundland, for the years therein stated, viz, eighteen hundred and fifty-one to eighteen hundred and seventy-six, and also that the statements hereto annexed, marked A and B, purporting to be a recapitulation of the imports from the United States and exports to the United States and other countries, for the years 1851 to the year 1876, inclusive, and a statement "showing the total and average imports and exports of fish and products of fish for the four years preceding the Reciprocity Treaty, the twelve years under the treaty, seven years after its abrogation, and three years under the Washington Treaty, respectively," have been carefully examined by this deponent, and that the said statements, to the best of this deponent's knowledge and belief, exhibit a true and correct account of the several matters therein set forth.

JAMES S. HAYWARD,
Assistant Collector.

Sworn before me at St. John's, aforesaid, this nineteenth day of July, A. D. 1877.

J. O. FRASER,
Commissioner of Affidavits.

Return showing the quantities and values of fish and products of fish imported from the United States of America, and exported to the United States and all other countries, from the colony of Newfoundland, during each year, from 1851 to 1876, inclusive.

Articles.	Imported from United States.		Exported to United States.		Exported to other countries.		Total.	
	Quantities.	Value.	Quantities.	Value.	Quantities.	Value.	Quantities.	Value.
1851.								
Dried codfish.....qtls.			14, 709	\$34, 272	1, 002, 443	\$2, 331, 561	1, 017, 152	\$2, 365, 838
Core codfish.....do.				420		922	420	922
Caplin.....pkgs.			12	19		553	544	572
Salmon.....tierces.			2, 570	36, 883	1, 456	20, 892	4, 026	57, 775
Herring.....bbls.			2, 538	6, 134	33, 721	81, 519	36, 259	87, 653
Tongues and sounds.....pkgs.			47	38		916	314	254
Trout.....bbls.			12	72		120	34	192
Oil, viz:								
Cod.....tons.			8	1, 142	3, 407	494, 525	3, 415	495, 667
Cod-liver.....do.			10	3, 230		21, 039	77	24, 269
Seal.....do.			1	143	6, 967	1, 000, 772	6, 968	1, 000, 915
Blubber and dregs.....do.				420		15, 038	420	15, 038
Seal-skins.....No.			753	542	510, 877	367, 119	511, 630	367, 661
Whalebone.....tols.					105	49, 944	105	49, 944
Total.....				82, 475		4, 384, 460		4, 466, 935
1852.								
Dried codfish.....qtls.			45, 003	102, 057	927, 918	2, 122, 392	972, 921	2, 224, 449
Herring.....bbls.			9, 259	15, 000	33, 456	54, 173	42, 715	69, 173
Salmon.....tierces.	23	\$360	2, 351	33, 926	1, 058	15, 283	3, 409	49, 209
Core fish.....qtls.					810	1, 507	810	1, 507
Caplin.....pkgs.			69	86	508	639	577	725

Return showing the quantities and values of fish and products of fish, &c.—Continued.

Articles.	Imported from United States.		Exported to United States.		Exported to other countries.		Total.	
	Quantities.	Value.	Quantities.	Value.	Quantities.	Value.	Quantities.	Value.
1852.								
Tongues and sounds pkgs.			192	\$259	847	\$1, 147	\$1, 039	\$1, 406
Trout.....bbils			60	465	20	154	80	619
Oil, viz:								
Cod.....tuns.			542	78, 878	3, 243	471, 946	3, 785	550, 894
Cod liver.....do.			19	6, 211	108	35, 170	127	41, 381
Seal.....do.			1, 771	275, 851	5, 563	866, 341	7, 334	1, 142, 192
Blubber and dregs.....do.					388	10, 915	388	10, 915
Seal skins.....No.			16, 945	11, 592	517, 433	356, 000	534, 378	367, 592
Whalebone.....cwt			6	15	33	76	39	91
Oysters.....bush	100	\$82						
Total		442		524, 340		3, 935, 743		4, 460, 083
1853.								
Dried codfish.....qtls			20, 888	60, 993	901, 830	2, 631, 423	922, 718	2, 692, 416
Core codfish.....do.					2, 440	4, 896	2, 440	4, 896
Mackerel.....bbils			10	48	40	192	50	240
Hallbut.....qtls			12	10			12	10
Caplin.....pkgs					1, 146	1, 290	1, 146	1, 290
Herring.....bbils			6, 640	18, 326	48, 500	133, 863	55, 140	152, 189
Salmon.....tierces			1, 315	27, 033	2, 040	41, 881	3, 355	68, 914
Tongues and sounds pkgs.			152	240	468	744	620	984
Trout.....bbils			15	91	49	293	64	384
Oil, viz:								
Cod.....tuns.			325	51, 101	3, 180	497, 755	3, 505	548, 856
Cod liver.....do.			52	17, 270	318	106, 503	370	123, 773
Seal.....do.			6	1, 080	8, 131	1, 312, 925	8, 137	1, 314, 005
Blubber and dregs.....do.			80	2, 443	206	6, 298	286	8, 741
Seal skins.....No.			5, 333	4, 320	516, 450	418, 401	521, 783	422, 721
Whalebone.....cwt					10	170	10	170
Oysters.....bush	150	105						
Total		105		182, 955		5, 156, 634		5, 339, 589
1854.								
Dried codfish.....qtls			24, 731	79, 881	749, 386	2, 422, 776	774, 117	2, 502, 657
Herring.....bbils			2, 166	4, 939	33, 986	77, 678	36, 152	82, 617
Salmon.....do.	12	120	920	13, 613	2, 833	37, 694	3, 753	51, 307
Mackerel.....do.			19	144	2	10	21	154
Hallbut.....do.					71	132	71	132
Turbot.....do.					7	28	7	28
Trout.....do.					78	700	78	700
Cod sounds and tongues, pkgs.			204	345	819	1, 383	1, 023	1, 728
Caplin.....pkgs.			19	24	655	849	674	873
Oil, viz:								
Cod.....tuns.			403	7, 137	2, 797	560, 645	3, 200	567, 782
Cod liver.....do.			10	5, 956	199	113, 016	209	118, 972
Seal.....do.			5	960	5, 562	1, 047, 312	5, 567	1, 048, 272
Seal skins.....No.			146	120	398, 724	327, 312	398, 870	327, 432
Oysters.....bush	24	34						
Total		158		113, 119		4, 589, 535		4, 702, 654
1855.								
Dried codfish.....qtls			66, 379	195, 509	1, 041, 010	3, 069, 849	1, 107, 388	3, 265, 358
Cod and pickled fish.....do.					1, 078	4, 224	1, 078	4, 224
Herring.....do.			8, 904	29, 968	23, 138	65, 044	32, 042	95, 012
Salmon.....tierces			2, 210	47, 750	849	16, 466	3, 059	64, 216
Mackerel.....bbils					61	1, 089	61	1, 089
Turbot.....qtls					2	38	2	38
Sounds and tongues.....pkgs					390	1, 347	390	1, 347
Trout.....bbils					19	294	19	294
Caplin.....pkgs					353	715	353	717
Whalebone.....cwt					113	604	113	604
Oil, viz:								
Cod.....tuns.			181	34, 814	3, 615	763, 738	3, 796	798, 552
Cod liver.....do.			29	14, 193	233	131, 151	262	145, 341
Seal.....do.			151	2, 784	3, 744	739, 412	3, 760	742, 196
Oysters and cods not enumerated				5, 832				5, 832
Total				330, 850		4, 793, 971		5, 124, 891

Return showing the quantities and values of fish and products of fish, &c.—Continued.

Articles.	Imported from United States.		Exported to United States.		Exported to other countries.		Total.	
	Quantities.	Value.	Quantities.	Value.	Quantities.	Value.	Quantities.	Value.
1856.								
Dried codfish	qtls.		64,293	\$193,795	1,204,041	\$3,594,000	1,268,344	\$3,787,795
Core codfish	do.		1,927	4,579	4,119	9,547	6,046	14,126
Caplin	pkgs.		66	158	336	686	402	844
Herring	bbls.		6,652	22,824	25,642	69,432	32,294	92,256
Salmon	tierces.		1,121	24,388	1,852	22,656	2,973	47,044
Mackerel	bbls.				12	180	12	180
Trout	do.				6	95	6	95
Halibut	qtls.				30	129	30	129
Sounds and tongues	pkgs.				1,346	2,467	1,346	2,467
Seal-skins	No.		5,370	3,868	337,287	338,784	361,317	342,652
Oysters	bush.	104	\$91					
Oil, viz:								
Cod	tuns.		752	149,409	3,247	629,691	3,999	779,100
Cod-liver	do.		28	11,204	180	65,054	208	76,258
Seal	do.		327½	70,444	4,613	966,384	5,009	1,036,828
Blubber and dregs	do.				414	24,754	414	24,754
Other fish and oils not enumerated				1,971				1,971
Total		91		482,640		5,723,859		6,206,499
1857.								
Dried cod-fish	qtls.		38,227	119,269	1,354,095	4,591,875	1,392,322	4,711,144
Mackerel	bbls.				33	240	33	240
Core cod-fish	qtls.				1,142	1,636	1,142	1,636
Caplin	pkgs.				217	254	217	254
Trout	bbls.				129	78	129	78
Sounds and tongues	pkgs.				206	784	206	784
Herring	bbls.		18,478	55,430	31,302	93,897	49,780	149,327
Herring, smoked	boxes.				155	86	155	86
Salmon	tierces.		2,182	54,960	623	21,529	2,805	76,489
Salmon, preserved	cases.				165	792	165	792
Lobsters	do.				37	177	37	177
Halibut	qtls.				18	62	18	62
Turbot	do.				8	24	8	24
Seal-skins	No.		9,296	8,399	486,387	467,342	496,113	476,241
Whalebone	cwts.				2	57	2	57
Oil, viz:								
Cod	tuns.		390	61,742	4,432	702,096	4,822	763,838
Cod-liver	do.		21	7,094	101	33,888	122	40,982
Seal	do.		433	76,877	6,732	249,115	7,165	325,992
Herring	do.				1	48	1	48
Blubber and dregs	do.				333	14,395	333	14,395
Other fish and oils not enumerated				6,892				6,892
Oysters	bush.	8	120					
Total		120		391,163		6,178,375		6,569,538
1858.								
Dried codfish	qtls.		44,482	151,238	993,607	3,515,246	1,038,089	3,666,484
Core codfish	do.				986	2,957	986	2,957
Caplin	pkgs.				239	283	239	283
Halibut	qtls.				22	62	22	62
Herring	bbls.	302	144	21,247	63,739	60,908	38,066	82,155
Salmon	tierces.			1,556	33,969	1,170	25,551	2,726
Sounds and tongues	pkgs.				480	293	480	293
Trout	bbls.				21	307	21	307
Mackerel	do.				134	964	134	964
Salmon, preserved	cases.				109	523	109	523
Lobsters	do.				8	192	8	192
Seal-skins	No.				507,624	426,403	507,624	426,403
Oil, viz:								
Cod	tuns.		1,194	154,735	3,774	489,132	4,968	643,867
Cod-liver	do.		33½	11,270	293½	98,808	327	110,078
Seal	do.		505½	75,192	5,971½	888,691	6,477	963,883
Whale	do.				11	1,728	11	1,728
Dogfish	do.				7	374	7	374
Herring	do.				1	48	1	48
Blubber and dregs	do.				296	5,333	296	5,333
Other fish and oils, not enumerated				4,142				4,142
Oysters	bush.	96	153					
Total		297		494,285		5,494,961		5,989,246

Return showing the quantities and values of fish and products of fish, &c.—Continued.

Articles.	Imported from United States.		Exported to United States.		Exported to other countries.		Total.	
	Quantities.	Value.	Quantities.	Value.	Quantities.	Value.	Quantities.	Value.
1899.								
Dried codfish.....	qtls		29,265	\$143,755	1,076,528	\$4,152,081	1,105,793	\$4,295,836
Core codfish.....	do.				855	1,061	885	1,061
Herring.....	bbis		30,123	72,299	39,787	95,485	69,910	167,784
Halibut.....	qtls				54	158	54	158
Salmon, preserved.....	cases				29	139	29	139
Salmon.....	tierces		2,213	50,458	1,503	34,267	3,716	84,725
Tongues and sounds.....	pkgs				199	418	699	418
Caplin.....	do.				206	244	206	244
Mackerel.....	bbis				7	48	7	48
Trout.....	do.				51	489	51	489
Lobsters.....	cases				8	77	8	77
Oysters.....	bush	153	\$110					
Oils, viz.								
Cod.....	tuns		1,309½	163,397	2,991½	373,430	4,301	536,827
Cod liver.....	do.		55½	18,619	368½	123,854	424	142,473
Seal.....	do.		254½	36,667	5,310½	764,789	5,565	801,456
Herring.....	do.				14	77	1½	77
Whale.....	do.				29	4,195	29	4,195
Dogfish.....	do.				2½	417	8½	417
Blubber and dregs.....	do.				386	3,130	386	3,130
Seal skins.....	No.		97	81	329,088	276,432	329,185	276,513
Other fish and oil not enumerated				8,918				8,918
Total.....		110		494,194		5,830,791		6,324,985
1900.								
Dried codfish.....	qtls		24,621	88,657	1,113,923	3,973,305	1,138,544	4,061,942
Core codfish.....	do.				3,492	2,990	3,492	2,990
Caplin.....	pkgs				88	105	88	105
Herring.....	bbis		27,460	65,904	36,251	87,005	63,711	152,949
Do.....	boxes	1,800	864					
Salmon.....	tierces		1,898	43,277	2,070	47,072	3,968	90,355
Do preserved.....	cases				51	1,027	51	1,027
Trout.....	bbis				750	7,200	750	7,200
Sounds and tongues.....	pkgs				723	518	723	518
Halibut.....	qtls				29	91	29	91
Mackerel.....	bbis				4	29	4	29
Oysters.....	bush	27	10					
Seal skins.....	No.				344,202	247,839	344,202	247,839
Oils, viz.								
Cod.....	tuns		1,014½	126,609	3,560½	444,346	4,575	570,955
Cod liver.....	do.		36	12,029	390	131,236	426	143,265
Seal.....	do.		192	27,663	4,673	672,940	4,865	700,603
Herring.....	do.				3	139	3	139
Whale.....	do.				16	1,344	16	1,344
Dogfish.....	do.				7	336	7	336
Blubber and dregs.....	do.				73	1,219	73	1,219
Other fish and oils not enumerated				8,491				8,491
Total.....		883		372,610		5,618,747		5,991,357
1901.								
Dried codfish.....	qtls		15,207	47,445	1,223,166	3,837,173	1,238,373	3,884,618
Core codfish.....	do.				372	446	372	446
Caplin.....	pkgs				191	230	191	230
Herring.....	bbis	3,498	1,680					
Do.....	boxes							
Trout.....	do.		22,550	55,120	55,641	116,421	78,191	171,541
Salmon.....	do.				77	739	77	739
Tongues and sounds.....	pkgs		822	19,728	3,163	75,912	2,924	95,640
Halibut.....	qtls				1,122	806	1,122	806
Seal skins.....	No.				10	29	10	29
Oysters.....	bush	150	105		375,282	270,201	375,282	270,201
Oils, viz.								
Cod.....	tuns		290½	42,729	3,021½	405,096	3,312½	447,825
Cod liver.....	do.		205½	86	205½	69,048	205½	69,134
Seal.....	do.		88½	13,977	5,200	823,680	5,282½	837,657
Herring.....	do.				3	158	3	158
Whale.....	do.				13	1,944	13	1,944
Dogfish.....	do.				8	369	8	369

AWARD OF THE FISHERY COMMISSION.

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Return showing the quantities and values of fish and products of fish, &c.—Continued.

Articles.	Imported from United States.		Exported to United States.		Exported to other countries.		Total.		
	Quantities.	Value.	Quantities.	Value.	Quantities.	Value.	Quantities.	Value.	
Blubber and dregs.	tuns				122	\$2,342	122	\$2,342	
Other fish and oils, not enumerated.				\$3,156				3,156	
Total		\$1,785		182,241		5,604,594		5,786,835	
1862.									
Dried codfish.	qtls		14,516	54,256	1,255,321	4,488,356	1,269,837	4,542,612	
Core codfish.	do.		400	450	20	24	420	504	
Haddock.	do.				1,135	2,728	1,135	2,728	
Caplin.	pkgs		16	19	63	77	79	96	
Herring.	boxes	11	5						
Do.	bbls		13,251	31,800	21,513	51,520	34,764	83,320	
Trout.	do.		507	4,868	42	403	549	5,271	
Salmon.	tierces		1,778	25,604	3,657	52,660	5,435	78,264	
Do. preserved.	cases				14	134	14	134	
Mackerel.	bbls		170	1,016	47	283	217	1,289	
Halibut.	qtls		12	33	46	134	58	167	
Tongues and sounds.	pkgs		589	422	488	350	1,077	772	
Seal-skins.	No		1,050	760	267,574	192,652	268,624	193,412	
Cod-roses.	bbls				118	283	118	283	
Oil, viz:									
Cod.	tuns		230½	41,504	2,528	130,265	2,758½	171,769	
Cod-liver.	do.		68	19,680	286	82,420	354	102,100	
Seal.	do.				3,433	659,246	3,433	659,246	
Whale.	do.				17	2,420	17	2,420	
Herring.	do.				1	144	1	144	
Dogfish.	do.				19	2,696	19	2,696	
Blubber and dregs.	do.		69	1,324	133	2,564	202	3,888	
Total		5		181,766		5,669,359		5,851,125	
1863.									
Dried codfish.	qtls		14,247	\$68,385	984,842	\$4,075,120	999,089	\$4,143,505	
Core codfish.	do.				505	605	505	605	
Herring.	bbls		35,736	120,072	32,840	110,345	68,576	230,417	
Herring, smoked.	boxes	695	\$336		254	139	254	139	
Salmon.	tierces		2,710	42,546	3,818	60,005	6,528	102,551	
Salmon, preserved.	cases				8	77	8	77	
Trout.	bbls				43	408	43	408	
Caplin.	pkgs				495	600	495	600	
Mackerel.	bbls				23	144	23	144	
Halibut.	qtls				190	547	190	547	
Sounds and tongues.	pkgs				692	499	692	499	
Cod-roses.	bbls				346	830	346	830	
Seal-skins.	No		2,690	6,240	284,461	200,510	287,151	206,750	
Oysters.	bush	12	9						
Oil, viz:									
Cod.	tuns		181½	41,755	2,715½	625,859	2,897	667,614	
Cod liver.	do.		25	12,230	199	98,169	224	110,399	
Seal.	do.		4	878	4,162	900,468	4,166	901,286	
Herring.	do.				17	2,419	17	2,419	
Whale.	do.				22	3,182	22	3,182	
Dogfish.	do.				11	1,569	11	1,569	
Blubber and dregs.	do.				147	2,808	147	2,808	
Other fish and oils, not enumerated.				10,747				10,747	
Total		345		302,853		6,084,243		6,387,096	
1864.									
Dried codfish.	qtls	300	1,080	7,068	40,994	1,009,166	4,451,861	1,016,234	4,462,855
Haddock.	do.				1,021	3,441	1,024	3,441	
Core codfish.	do.		168	201	240	288	408	489	
Ling.	do.				8	24	8	24	
Herring.	bbls		22,512	81,043	18,321	64,976	40,833	146,019	
Herring, smoked.	boxes	1,278	616		682	413	682	413	
Salmon.	tierces		1,211	20,688	1,904	32,682	3,115	53,370	
Salmon, preserved.	boxes				23	110	23	110	
Trout.	bbls		718	6,993	11	105	729	7,098	
Caplin.	pkgs		18	19	387	465	405	484	
Mackerel.	bbls		158	950			158	950	
Halibut.	qtls		130	312	478	1,147	608	1,459	
Tongues and sounds.	pkgs		273	259	182	177	455	436	

Return showing the quantities and values of fish and products of fish, &c.—Continued.

Articles.	Imported from United States.		Exported to United States.		Exported to other countries.		Total.	
	Quantities.	Value.	Quantities.	Value.	Quantities.	Value.	Quantities.	Value.
Cod-roses.....bbls					8	\$19	8	\$19
Lobsters, preserved, cases					20	96	20	96
Oysters.....bush	35	\$34						
Seal skins.....No.					125,950	90,686	125,950	90,686
Oil, viz:								
Cod.....tuns			135½	\$32,577	2,176½	522,336	2,312	554,913
Cod liver.....do.					172	126,624	172	126,624
Seal.....do.					1,629	371,457	1,629	371,457
Herring.....do.					1½	259	1½	259
Whale.....do.					24	3,777	24	3,777
Dogfish.....do.					15	2,366	15	2,366
Blubber and dregs.....do.			34	648	263	5,069	297	5,717
Total.....		1,730		184,684		5,678,378		5,863,062
1865.								
Dried codfish.....qtls			14,116	63,522	982,998	4,011,069	997,114	4,074,591
Core codfish.....do.			6	6			6	6
Haddock.....do.					668	2,004	668	2,004
Cod-roses.....bbls					1,590	3,180	1,590	3,180
Caplin.....pkgs					534	534	534	534
Herrings.....bbls			34,633	121,216	30,313	106,096	64,946	227,312
Herrings smoked.....boxes	300	150	30	15			30	15
Salmon.....tierces			2,089	35,967	1,481	25,794	3,570	61,761
Salmon, preserved, cases			50	50	940	940	990	990
Trout.....bbls			311	3,086	13	162	324	3,248
Mackerel.....do.			4	24	13	78	17	102
Turbot.....qtls			8	24	7	21	15	45
Lobsters, preserved, cases						1,488		1,488
Halibut.....qtls			718	1,795	233	875	951	2,670
Tongues and sounds.....pkgs			596	596	328	328	924	924
Whalebone.....cwt			3	240	101	8,080	104	8,320
Seal-skins.....No.			2,509	1,875	239,971	179,977	242,471	181,852
Oysters.....bush	3	2						
Oil, viz:								
Cod.....tuns			890	213,593	1,926	462,273	2,816	675,866
Cod liver.....do.			140	44,761	279	89,369	419	134,130
Seal.....do.			181	41,580	3,086	709,994	3,267	751,574
Herring.....do.			3½	541	3	438	6½	979
Whale.....do.			90	13,879	2	289	92	14,168
Dogfish.....do.			19	2,958	11	1,730	30	4,688
Blubber and dregs.....do.			21	405	324	4,066	255	4,471
Total.....		153		546,133		5,608,785		6,154,918
1866.								
Dried codfish.....qtls			1,707	8,445	928,740	3,713,343	930,447	3,721,788
Salmon.....tierces			2,169	61,052	2,150	59,880	4,319	120,932
Herrings.....bbls			40,957	122,871	162,825	488,475	203,782	611,346
Trout.....do.			268	3,744	37	531	305	4,275
Oil, viz:								
Seal.....tuns			1,074	171,880	3,739	597,678	4,813	769,558
Whale.....do.			48	8,292			48	8,292
Cod.....do.			263	48,655	2,748	508,380	3,011	557,035
Cod liver.....do.			23	7,837	215	70,703	238	78,540
Herring.....do.					10½	1,537	10½	1,612
Blubber and dregs.....do.			51	964	53	1,012	104	1,976
Seal-skins.....No.			1,630	1,215	309,645	232,233	311,265	233,448
Halibut.....qtls			860	3,440	564	2,256	1,424	5,696
Cod-roses.....bbls			10	20	332	664	342	684
Haddock.....qtls					457	914	457	914
Whalebone.....cwt					250	20,000	250	20,000
Sounds and tongues.....kegs			308	308	177	177	485	485
Turbot, trout.....			5,380	1,076			5,380	1,076
Salmon, preserved.....				6,800		1,639		8,439
Pickled fish.....cwt	43.12	10						
Total.....		10		446,584		5,699,422		6,146,006
1867.								
Dried codfish.....qtls								
Pickled codfish.....do.	36	72	8,821	35,524	1,057,334	3,163,121	1,066,215	3,198,645
Haddock.....do.					1,685	3,201	1,685	3,201
Halibut.....do.			634	2,536	683	1,415	1,317	3,951

Return showing the quantities and values of fish and products of fish, &c.—Continued.

Articles.	Imported from United States.		Exported to United States.		Exported to other countries.		Total.	
	Quantities.	Value.	Quantities.	Value.	Quantities.	Value.	Quantities.	Value.
Turbot	bbls		5	\$70	3	\$18	8	\$88
Caplin	pkgs		2	2	73	73	75	75
Sounds and tongues	do.		655	655	161	161	816	816
Salmon	tierces		967	23,200	4,373	56,910	5,340	80,110
Herrings	bbls.		37,418	112,254	112,358	247,208	149,776	359,462
Mackerel	do.		17	102			17	102
Trout	do.		576	4,608	561	4,488	1,137	9,960
Cod-roses	do.				763	2,289	763	2,289
Seal-skins	No.		300	240	389,372	350,464	389,672	350,704
Oil, viz:								
Cod	tuns.		243	34,123	3,940	568,229	4,183	602,352
Cod-liver	do.		69	17,424	203	53,296	272	70,720
Seal	do.		67	10,781	5,075	770,803	5,142	771,584
Whale	do.		24	3,418	40	6,310	64	9,728
Dogfish	do.		10	1,601	1	47	11	1,648
Total		\$72		246,498		5,228,033		5,474,531
1868.								
Dried codfish	qtls.		19,919	69,736	1,150,029	4,025,082	1,169,948	4,094,818
Haddock	do.				837	2,511	837	2,511
Halibut	do.				749	1,498	749	1,498
Herrings	bbls.		40,199	120,597	146,964	440,892	187,163	561,489
Mackerel	do.		9	54			9	54
Trout	do.		846	6,768	69	552	915	7,320
Cod-roses	do.				1,092	2,184	1,092	2,184
Salmon	tierces		2,363	48,018	4,140	82,042	6,503	130,060
Turbot	bbls.		2	6	30	186	32	192
Sounds and tongues	pkgs.		13	13	487	487	500	500
Whalebone	cwt		1	100			1	100
Oysters	bush.	463	348					
Seal-skins	No.		15,794	12,635	317,522	254,017	333,316	266,652
Oil, viz:								
Cod	tuns.		593	83,020	2,478	346,920	3,071	429,940
Cod-liver	do.		83	22,000	142	14,250	225	36,250
Whale	do.		3	420	72	10,080	75	10,500
Seal	do.		397	63,520	4,458	713,280	4,855	776,800
Herring	do.				34	5,100	34	5,100
Blubber and dregs	do.				86	1,720	86	1,720
Total		348		456,887		5,900,801		6,327,688
1869.								
Dried codfish	qtls.		9,011	36,044	1,195,075	4,780,300	1,204,086	4,816,344
Core codfish	do.				2,355	4,710	2,355	4,710
Haddock	do.				1,719	5,157	1,719	5,157
Halibut	do.		664	1,328			664	1,328
Salmon	tierces		3,330	55,084	5,884	92,340	9,214	147,424
Herring	bbls.		37,651	112,953	141,789	725,367	179,440	838,320
Trout	do.		882	7,056	646	5,168	1,528	12,224
Cod-roses	do.				964	3,856	964	3,856
Tongues and sounds	pkgs.		719	719	840	840	1,559	1,559
Lobsters, preserved				5		237		242
Oysters	bush.	36	36					
Seal-skins	No.		2,000	2,000	361,021	361,021	363,021	363,021
Oil, viz:								
Cod	tuns.		572	91,600	4,016	578,544	4,588	670,144
Cod-liver	do.		63	15,875	270	67,375	333	83,250
Seal	do.		1,784	303,365	3,796	645,235	5,580	948,600
Whale	do.		3	385	18	2,555	21	2,940
Herring	do.			75	294	4,395	30	4,470
Dogfish	do.			80	101	1,600	11	1,680
Blubber and dregs	do.			8	197	3,160	198	3,168
Total		36		626,577		7,281,860		7,808,437
1870.								
Dried codfish	qtls.		17,033	67,987	1,196,704	4,544,213	1,213,737	4,612,900
Core codfish	do.		35	35	1,907	3,051	1,942	2,086
Haddock	do.				28	44	28	44
Halibut	do.		65	130	272	544	337	674
Salmon	tierces		2,983	48,448	3,568	56,368	6,551	104,816
Herring	bbls.		19,833	79,332	126,856	316,728	146,689	396,060
Mackerel	do.		864	6,912	155	1,240	1,019	8,152
Trout	do.		1,022	8,176	308	2,464	1,330	10,840
Cod-roses	do.		10	80	1,255	4,980	1,265	5,060

Return showing the quantities and values of fish and products of fish, &c.—Continued.

Articles.	Imported from United States.		Exported to United States.		Exported to other countries.		Total.	
	Quantities.	Value.	Quantities.	Value.	Quantities.	Value.	Quantities.	Value.
Sounds and tongues pkgs			452	\$452			452	\$452
Sea-skims No			3,054	3,054	352,344	\$352,344	355,428	355,428
Oil, viz:								
Cod tuns			225	32,436	3,609	534,996	3,834	567,432
Cod liver do			46	11,925	373	97,315	419	108,940
Seal do			182	47,940	6,087	1,034,790	6,369	1,082,730
Herring do					2	264	2	264
Dogfish do			6	960			6	960
Blubber and dregs do			108½	1,736	101½	1,624	210	3,360
Total				309,333		6,950,965		7,260,298
1871.								
Dried codfish qtls			2,735	\$34,940	1,319,991	\$5,014,218	1,328,726	\$5,049,158
Core codfish do					640	1,044	640	1,044
Haddock do			630	1,890			630	1,890
Halibut do					450	900	450	900
Salmon tierces			1,423	23,448	2,554	40,184	3,977	63,632
Herring bbis			31,863	95,589	155,566	364,240	187,429	459,829
Mackerel do			916	7,328	458	3,664	1,374	10,992
Trout do			386	3,088	68	544	454	3,632
Cod-roes do					1,939	5,817	1,939	5,817
Turbot do					20	80	20	80
Sounds and tongues pkgs			102	102	97	97	199	199
Sea-skims No			33,000	33,000	504,094	504,094	537,094	537,094
Oil, viz:								
Cod tuns			455	59,150	4,783	632,266	5,238	691,416
Cod liver do			92	18,400	221	44,902	313	63,302
Seal do			509	71,260	7,995	1,119,300	8,504	1,190,560
Whale do					9	1,152	9	1,152
Herring do					20	3,000	20	3,000
Dogfish do			7	1,120			7	1,120
Blubber and dregs do			10	160	69	1,104	79	1,264
Total				349,475		7,736,606		8,086,081
1872.								
Dried codfish qtls			8,544	34,176	1,212,612	4,850,448	1,221,156	4,884,624
Core codfish do					739	739	739	739
Frost frozen codfish do					358	1,432	358	1,432
Haddock do					12	36	12	36
Halibut do					429	858	429	858
Turbot do					5	20	5	20
Herring pickled bbis			19,653	58,959	121,220	363,660	140,873	422,619
Herring fresh do			6,898	20,694			6,898	20,694
Herring smoked boxes					14	14	14	14
Salmon tierces			1,074	17,184	3,975	63,600	5,094	80,784
Salmon preserved						3,080		3,080
Trout bbis			1,885	15,080	304	2,432	2,189	17,512
Mackerel do			244	1,952	360	2,880	604	4,832
Cod-roes do					910	7,288	910	7,288
Sounds and tongues pkgs			30	30	94	94	124	124
Caplin do					147	147	147	147
Loose preserved do						680		680
Whalebone cwt						169		169
Oysters bush			18	\$36				
Sea-skims No			500	500	277,872	277,872	278,372	278,372
Oil, viz:								
Cod tuns			342	47,880	3,791	530,749	4,133	578,630
Cod liver do			198	39,600	23	4,600	221	44,200
Seal do					4,228	591,920	4,228	591,920
Herring do					50	7,500	50	7,500
Whale do					38	5,320	38	5,320
Dogfish do					8	1,280	8	1,280
Blubber and dregs do			11	176	93	1,488	104	1,664
Total			36	236,231		6,718,297		6,954,528
1873.								
Dried codfish qtls			9,544	42,194	1,359,641	4,886,944	1,369,205	4,929,138
Core codfish do			20	30	1,503	2,254	1,523	2,284
Haddock do					1,798	2,887	1,798	2,887
Halibut do			1,848	3,696			1,848	3,696
Herring pickled bbis			25,114	75,342	7,076	243,438	192,608	318,780
Herring fresh do			10,550	31,650			10,550	31,650
Herring smoked do					200	200	200	200

Return showing the quantities and values of fish and products of fish, &c.—Continued.

Articles.	Imported from United States.		Exported to United States.		Exported to other countries.		Total.	
	Quantities.	Value.	Quantities.	Value.	Quantities.	Value.	Quantities.	Value.
Salmon.....tierces			635	\$10,795	7,076	\$806,571	7,711	\$817,366
Salmon, preserved.....						8,660		8,660
Trout.....bbls			405	1,620	1,147	4,588	1,552	6,208
Mackerel.....do.			28	196	19	133	47	329
Cod-ros.....do.					858	2,574	858	2,574
Lobsters, preserved.....						1,390		1,390
Sounds and tongues.....pkgs			279	279			279	279
Caplin.....do.					135	135	135	135
Oysters.....bush	186	\$139						
Seal-skins.....No.			2,010	2,110	461,521	464,597	463,531	466,707
Whalebone.....						648		648
Oil, viz:								
Cod.....tuns			227	32,060	3,727	521,500	3,954	553,560
Cod-liver.....do.			159	32,595	162	31,605	321	64,200
Seal.....do.			80	10,400	6,755	878,150	6,835	888,550
Whale.....do.					57	7,296	57	7,296
Herring.....do.					78	9,360	78	9,360
Dogfish.....do.					6	70	6	70
Blubber and dregs.....do.					143	2,288	143	2,288
Total.....		139		242,967		7,895,998		8,138,965
1874.								
Dried codfish.....qtls			18,004	85,489	1,591,720	6,031,462	1,609,724	6,116,951
Core codfish.....do.			300	510	604	846	904	1,356
Haddock.....do.					18	63	18	63
Halibut.....do.			822	1,644	627	1,254	1,449	2,898
Turbot.....do.					13	52	13	52
Herrings.....bbls			18,401	55,203	171,555	514,665	189,956	569,868
Herrings, frozen.....do.			8,300	8,300			8,300	8,300
Salmon.....tierces			1,643	24,618	6,240	93,627	7,883	118,245
Salmon, preserved.....lbs					36,562	4,875	36,562	4,875
Trout.....bbls			1,478	11,824	756	6,048	2,234	17,872
Mackerel.....do.					47	376	47	376
Lobsters, preserved.....lbs					25,814	2,581	25,814	2,581
Tongues and sounds.....pkgs			108	108	168	168	276	276
Caplin.....do.					51	51	51	51
Cod-ros.....bbls					1,186	3,558	1,186	3,558
Whalebone.....cwt					17	1,700	17	1,700
Oil:								
Cod.....tuns			477	76,400	2,462	393,840	2,939	470,240
Cod-liver.....do.			83	19,123	139	32,025	222	51,148
Seal.....do.					4,358	610,120	4,358	610,120
Herring.....do.					20	2,560	20	2,560
Whale.....do.					62	8,680	62	8,680
Dogfish.....do.					6	768	6	768
Blubber and dregs.....do.			1	16	80	1,280	81	1,296
Seal-skins.....No.			1,550	2,015	396,816	515,861	398,366	517,876
Oysters.....bush	105	79						
Total.....		79		285,250		8,226,460		8,511,710
1875.								
Dried codfish.....qt/s			10,008	50,177	1,126,227	5,403,751	1,136,235	5,453,928
Core codfish.....do.					730	1,460	730	1,460
Haddock.....do.					144	576	144	576
Halibut.....do.			147	294	183	366	330	660
Turbot.....do.					15	60	15	60
Herring.....bbls			30,758	92,274	161,881	485,643	192,639	577,917
Herring, frozen fresh.....do.			14,450	14,450			14,450	14,450
Salmon.....tierces			1,931	27,044	6,170	86,380	8,101	113,414
Salmon, preserved.....lbs					50,120	6,683	50,120	6,683
Turbot, smoked.....qtls			8	136			8	136
Lobsters, preserved.....lbs					144,723	14,472	144,723	14,472
Trout.....bbls			1,353	8,118	105	630	1,458	8,748
Cod-ros.....do.			76	229	145	434	221	663
Sounds and tongues.....pkgs			164	164			164	164
Caplin.....do.			9	9	46	46	55	55
Whalebone.....cwt			4	450	52	5,250	57	5,700
Fish, pickled.....do.	7	22						
Oil, viz:								
Cod.....tuns			36	6,292	2,954	496,028	2,990	502,320
Cod-liver.....do.			15	3,264	74	24,077	89	27,341
Seal.....do.			166	21,912	4,805	634,260	4,971	656,172
Herring.....do.					20	2,560	20	2,560
Whale.....do.			6	768	31	3,968	37	4,736
Dogfish.....do.					5	640	5	640

Return showing the quantities and values of fish and products of fish, &c.—Continued.

Articles.	Imported from United States.		Exported to United States.		Exported to other countries.		Value.	
	Quantities.	Value.	Quantities.	Value.	Quantities.	Value.	Quantities.	Value.
Blubber and dregs	tuns		4	\$68	88	\$1,404	92	\$1,472
Seal-skins	No.				346,924	551,001	346,924	451,001
Total		\$82		\$25,639		7,619,689		7,845,328
1876.								
Dried codfish	qtls		4,905	27,958	1,359,163	5,475,970	1,364,068	5,019,928
Core codfish	do.		225	450	734	1,468	959	1,918
Haddock	do.				535	1,926	535	1,926
Halibut	do.		190	380	142	284	382	664
Herring	bbls.		28,875	96,647	262,876	419,958	291,751	516,605
Herring, smoked	boxes				200	50	200	50
Salmon	tierces		1,062	16,992	6,346	102,176	7,448	119,168
Salmon, preserved					50,288	5,036	50,288	5,036
Mackerel	bbls.				1	8	1	8
Trout	do.		435	3,332	532	3,630	967	6,962
Cod-roses	do.		73	292	642	2,568	715	2,860
Sounds and tongues	pkgs		80	80	39	39	119	119
Caplin	do.				396	396	396	396
Lobsters, preserved					6,046	29,020	6,046	29,020
Oysters	bush	150	150					
Fish, pickled	qtls	5	15					
Seal-skins	No.				341,811	444,353	341,811	444,353
Oil, viz:								
Cod	tuns		24	3,840	2,348	375,680	2,372	379,520
Cod liver	do.		18	4,608	94	24,192	112	28,800
Seal	do.		4	612	4,691	638,010	4,696	638,622
Herring	do.				19	2,464	19	2,464
Whales	do.		2	256	22	2,848	24	3,104
Pot head	do.					70		70
Blubber and dregs	do.				72	2,284	72	2,842
Total		165		155,447		7,532,430		7,687,877

A.

RECAPITULATION.

Years.	Imported from United States.	Exported—		
		To United States.	To other coun- tries.	Total.
	Values.	Values.	Values.	Values.
1851		\$82,475	\$4,384,460	\$4,466,935
1852	882	524,340	3,935,743	4,460,083
1853	105	182,955	5,156,634	5,339,589
1854	158	113,119	4,589,535	4,702,654
1855		330,850	4,793,971	5,124,821
1856	91	482,640	5,723,859	6,206,499
1857	120	391,163	6,178,375	6,569,538
1858	297	494,285	5,494,961	5,989,246
1859	110	494,194	5,830,791	6,324,985
1860	883	372,610	5,618,747	5,991,357
1861	1,785	185,241	5,604,594	5,786,835
1862	5	181,766	5,669,359	5,851,125
1863	345	302,853	6,084,243	6,387,096
1864	1,720	184,684	5,678,378	5,863,062
1865	152	546,133	5,608,785	6,154,918
1866	10	446,584	5,699,422	6,146,006
1867	72	246,498	5,228,033	5,474,531
1868	318	426,887	5,900,801	6,327,688
1869	36	626,577	7,281,860	7,908,437
1870		309,333	6,950,965	7,260,298
1871		349,475	7,736,606	8,086,081
1872	36	236,231	6,718,297	6,954,528
1873	139	242,967	7,895,998	8,138,965
1874	79	245,250	8,226,460	8,511,710
1875	22	225,639	7,619,689	7,845,328
1876	165	155,447	7,532,430	7,687,877
Total for twenty-six years		6,760	8,417,196	157,142,996
				165,560,192

B.

Statement showing the total and average imports and exports of fish and products of fish for the four years preceding the Reciprocity Treaty, the twelve years under the treaty, seven years after its abrogation, and three years under the Washington Treaty, respectively.

Years.	Imported from United States.	Exported—		
		To United States.	To other countries.	Total.
	Values.	Values.	Values.	Values.
1851.....		\$82,475	\$4,384,460	\$4,466,935
1852.....	82	524,340	3,935,743	4,460,083
1853.....	105	182,955	5,156,634	5,339,589
1854.....	158	113,119	4,569,535	4,702,654
Total for 4 years preceding Reciprocity Treaty	345	902,889	18,066,372	18,969,261
1855.....		330,850	4,793,971	5,124,821
1856.....	91	482,640	5,723,859	6,206,499
1857.....	120	391,163	6,178,375	6,569,538
1858.....	297	494,285	5,494,961	5,989,246
1859.....	110	494,194	5,830,791	6,324,985
1860.....	883	372,610	5,618,747	5,991,357
1861.....	1,785	182,241	5,604,594	5,786,835
1862.....	5	181,766	5,669,359	5,851,125
1863.....	345	302,853	6,084,243	6,387,096
1864.....	1,720	184,684	5,678,378	5,863,062
1865.....	152	546,133	5,608,785	6,154,918
1866.....	10	446,584	5,699,422	6,146,006
Total for 12 years under Reciprocity Treaty	5,518	4,410,003	67,985,485	72,395,488
1867.....	72	246,498	5,228,033	5,474,531
1868.....	348	426,887	5,900,801	6,327,688
1869.....	36	626,577	7,281,860	7,908,437
1870.....		309,333	6,950,965	7,260,298
1871.....		349,475	7,736,606	8,086,081
1872.....	36	236,231	6,718,297	6,954,528
1873.....	139	242,967	7,895,998	8,138,965
Total for 7 years after abrogation of Reciprocity Treaty.....	631	2,437,968	47,712,560	50,150,528
1874.....	79	285,250	8,226,460	8,511,710
1875.....	22	225,639	7,619,629	7,845,268
1876.....	165	155,447	7,532,430	7,687,877
Total for 3 years under Washington Treaty	266	666,336	23,378,519	24,044,915
AVERAGES.				
Average for 4 years preceding Reciprocity Treaty	86	225,722	4,516,593	4,742,315
Average for 12 years under Reciprocity Treaty	459	367,500	5,665,457	6,032,957
Average for 7 years after abrogation of Reciprocity Treaty.....	90	348,281	6,816,080	7,164,361
Average for 3 years under Washington Treaty	88	222,112	7,792,859	8,014,971
Average for 26 years, from 1851 to 1876	260	323,738	6,043,961	6,367,699



APPENDIX J.

SPEECHES OF COUNSEL INCLUDING THE FINAL ARGUMENTS.

I.

At the fifth Conference held on the 31st of July, 1877, on the conclusion of the reading of the "Case of Her Majesty's Government"; the "Answer of the United States"; and the "Reply of Her Majesty's Government,"

Mr. THOMSON said: This, your excellency and your honors, is the "Case of Great Britain"; the "Answer of the United States" to this Case, and the reply. The issues are plain, and are not, I apprehend, to be misunderstood. I think I may not be presumptuous in saying on the part of Her Majesty's Government, that we feel these issues are trusted for adjudication and decision to able and impartial hands; and if it shall happen, as I hope it may, that the result of your deliberations in this Case may be the basis upon which future and more lasting negotiations may be entered into, and so a source of continued national and local irritation be entirely removed, then I think I may fairly say to your excellency and your honors, that you will have acquired no unenviable and no unimportant place in the history of your times; and I am quite satisfied that you will have earned by your labors the lasting gratitude of two great peoples.

II.

At the twenty-fifth conference held on the 28th day of August, 1877, Mr. TRESPOT, on behalf of the Government of the United States, made the following application:

Mr. President and gentlemen of the Commission: As the time is now approaching when the evidence in support of the British Case will be closed, and we will be requested to open the testimony in behalf of the United States, we would ask leave to make a slight change in the order of our proceeding as it has been at present arranged.

According to the present arrangement, it will be our duty to open our case in advance of the testimony by laying before you the general scheme of our argument and indicating the points upon which evidence will be submitted in its support.

The character of the testimony which has been now submitted in support of the British Case, and the tenor of that which we will offer (as may be inferred from the evidence of the two witnesses whom we were allowed to examine out of order) have impressed us with the conviction that a practical discussion of the real issues will be more certainly secured, and the time and patience of the Commission will be more wisely

economized, if we are allowed to submit such views as it may be our duty to maintain at the close instead of the advance of the examination of witnesses.

As we understand the wish of both governments to be that the whole discussion should be as frank and full as possible, it has occurred to us that you might be disposed to allow us to adopt such an arrangement as would in our judgment best enable us to lay before you a complete presentment of the opinions of the government we represent. And we feel more assured in that opinion as this privilege deprives counsel on the other side of no advantage which they now possess. For, beside the right to reply to the printed argument which they now have, we would of course expect that they would also be allowed the right of oral reply, if they desired to exercise it.

An opening speech is not necessary, as the counsel on the other side have shown, but it would be obviously improper to submit this Case without a careful review of the testimony which will have been offered on both sides; and this can be done with much more convenience and thoroughness by an oral speech than by a written argument. To say all that it may be our duty to say in a printed argument would be impossible, without swelling it into a volume of unreadable proportions.

It is our purpose to make the printed argument a complete but concise summary of the contention, a clear statement of the principles involved and the authorities referred to, accompanied by an analysis of the leading facts of the testimony. This we can do, so as to make it an efficient help to you in your own examinations of the case, if we are not compelled to overload it with all the discussion which the evidence and the case itself suggest, but which we could sufficiently dispose of in oral argument.

We would therefore request permission so to distribute the argument on our side as to have the opportunity of submitting our views orally, upon full comparison of all the testimony taken. It is no small inducement to make this request that we believe that upon the close of the testimony we will be able to dispense with much argument which we can scarcely avoid in the present imperfect condition of the testimony.

Respectfully,

RICHARD H. DANA,
WM. HENRY TRESCOT,
Counsel for United States.

Mr. FOSTER said: As the motion just made involves a departure from the course of procedure adopted by the Commission, to which I assented, it is proper that I should say a few words in reference to it. At the time the rules were adopted, the Commission certainly cannot forget the position in which I found myself placed. Contrary to my own expectations and to the expectations of my government, the Commissioners decided to allow the active participation in the conduct of the case of five counsel on behalf of the five maritime provinces. I came here expecting to meet only the Agent of the British Government, and suddenly found I was also to meet five leaders of the bar from the five provinces. I felt it important not to have five closing arguments against me. Now that there are counsel here to represent the United States as well as the British Government, it seems to me reasonable that such a modification of the rules should be made as will permit the services of the counsel who have been brought here in consequence of the decision of the Commission to be made available to the greatest extent. While I should have

been quite content to have discussed this matter in writing with the British Agent, finding that I had to meet five counsel, my government has been obliged to send counsel here, and it seems desirable that we should be able to use them in the most efficient way.

Then, again, the evidence has assumed a very wide range, and is manifestly going to be conflicting to the last degree upon some of the points, notably as to what proportion of the mackerel taken by the American fishermen in British waters is taken within three miles of the shore. On that subject there is going to be a very great conflict of evidence. I don't believe that such a question can be satisfactorily discussed either in advance of the reception of the testimony or in writing after it is all in. It involves so much detail, that the writing, if laid before you, would swell to a bulk that would be altogether unreasonable. I therefore very strongly concur in the application that has been made.

Mr. DOUTRE suggested that the British counsel should have time to consider the matter before replying.

Mr. FOSTER concurred, and said that was the reason the application and the grounds of it had been put in writing.

At the Conference held on Wednesday, August 28, 1877.

Mr. THOMSON. An application was yesterday made to the Commission. I was not present at the time, but I have seen the written proposition, and I understand that it was an application made to your excellency and your honors for the purpose of altering the rules. On behalf of Her Majesty's Government—I am also now speaking the mind of the minister of marine—I may say that these rules have been solemnly entered into. We have acted upon them from the commencement to the end so far as we have gone, but still we have no desire that our friends on the other side should be deprived of any right which they think they ought fairly to have in order to bring their cases before this tribunal. We, however, certainly deprecate any alteration of the rules; and we feel that we are just in this position. During all this time that we have been examining our witnesses, we did so under the idea that the rules would remain as they were engrossed. It is important, we think, in such an inquiry as this, that these rules should be rigidly adhered to, unless there be some very important reason why they should be deviated from. I confess, speaking for myself, that I hardly see the force of the reasons advanced in favor of the proposed change on behalf of the United States Government. They say that their arguments, if placed on paper, would be so bulky as to fill a large volume. Possibly that may be so; but still that is rather more complimentary to their powers of discursiveness than anything else; and they accompany this expression of opinion with the statement that they wish to be heard orally at great length. I presume that this will all be reported by the short-hand writers, and in the shape of a lengthy volume it will meet the eyes of the Commissioners; so I do not see how this bulky volume is in any way to be escaped. Nevertheless, as I said before, we are not desirous to object to our friends on the other side taking this course in order to fairly bring the merits of their case before the tribunal, if they so think fit. We, therefore, are willing that they shall, if they please, be heard orally at the close of the evidence on both sides; but we submit—and we trust that in this respect there can be no difference of opinion—that your excellency and your honors will not make any deviation from the rule which requires our friends on the opposite

side, at the close of their case, to file their written argument, if they intend at all so to do. We contend that it would be entirely at variance with the whole spirit with which this inquiry has been conducted that they should, after making their speech, call upon us, if we please to make a speech in answer, to make it, and that they then should file their written arguments. Such a course would wholly displace the position which we occupy before this tribunal. Great Britain stands here as the plaintiff, and the ordinary rule in courts of common law is this: That the plaintiff, after a short opening of his case, calls witnesses, as we have, and at the close of the plaintiff's case the defendant, after a short opening of his case, also calls witnesses; the respective counsel for the defendant and the plaintiff then make their closing arguments; after which the case is submitted to the jury by the judge. This is the course followed; and, therefore, while we are willing, if it is really thought necessary by my learned friends so to proceed, that they should have the right to close their case by arguments in writing, or verbally and in writing, yet if they close verbally and then wish to put in a written argument, that must be done at once; and we, if we so please, will then answer them verbally or in writing, as we like, or in both ways. I confess, speaking from the stand-point of counsel, that so far as I have a voice in the matter, I rather reluctantly agreed to this, because I think that these rules were formally framed; and, in reality, the proposition that the case should be conducted by written agreement came from the learned Agent of the United States, if I understand rightly, and we acceded to it, and entirely on that basis we have conducted the whole of our case. Still, I say again, that we will meet our friends half way.

Mr. TRESCOT. I suggest that my friend's proposition is an attempt at meeting by proceeding half-way in different directions; the trouble is that our half-ways do not meet at all. I am not sure that I understood my friend exactly, but as I understand him, he claims the right of two replies; that is, the right to reply to our oral argument and then the right to reply to the printed argument, to which we have no objection.

Mr. THOMSON. I said we would reply to your two arguments, oral and written.

Mr. TRESCOT. If you mean that we are to make an oral argument, and that if you do not want to make an oral argument you shall not be obliged to do so, I have no objection.

Mr. THOMPSON. I suppose that we will exercise our pleasure regarding that matter.

Mr. TRESCOT. If we make an oral argument, they have the right to reply. If, then, we give a printed argument, they have the same right to file a printed argument in reply; their relation to us in the case is preserved throughout. My friend refers to the character of the case, and taking into consideration not only the character of the case, but of the parties of the court before which we are, I may even venture to say of the counsel engaged, I do not think we ought to proceed in the spirit of a *nisi prius* trial. Your judgment certainly cannot be prejudiced by a full and frank discussion. Our purpose is to save time and labor. We propose orally to discuss this subject before you with a frankness and freedom that we cannot do in writing, and then to put in a printed summary, giving counsel on the other side the right to put in the final one. Surely my friend does not want us to adopt his suggestion because he wants to say something at the last moment to which we will not have opportunity to reply. There cannot be anything of a mystery in an

argument like this. We all now understand what are the issues which are before us. We only want to discuss them with perfect frankness and fullness, so that everything that is to be said on the case may be said. I want this case to be so argued, both in spirit and fact, that whatever the award may be, and whoever is called upon to submit to an adverse decision, they will be satisfied, having obtained the fullest possible hearing on the subject. I want to secure no advantage over my friends on the other side, and I do not believe that they desire to have any advantage over us; if they will allow me to borrow an illustration from the language of their witness, we do not wish to "lee-bow" them. But I think that my learned friend is sacrificing himself to a sort of technical superstition for the word "reply." In this case there is nothing mysterious, and no necessity exists in regard to having the last word. We are willing to lay our whole argument before the Commission, and then to let them reply to it, if they so wish; but if they do not choose to do it we do not intend to compel them to reply, and it is perfectly in their power to effect themselves what they propose by declining to reply to our oral argument and confining themselves to their final argument. I say frankly I would regret such a decision very much. We wish to know their case as they regard it, and without depriving them at all of their right to reply, to have a frank, full, straightforward and manly discussion of the whole question. I have always thought that the fairest manner for submitting a case is followed before our Supreme Court. Both parties put in their printed arguments, bringing them within the common knowledge of each party before the court, and then they are allowed to comment on these arguments as they please.

Mr. THOMSON. I agree with Mr. Trescot that this cause has not to be tried as one at *nisi prius*; we do not want *nisi prius* rules here, but we want the broad principle understood that Great Britain in this case is the plaintiff, and as such she is first to be heard and the last to be heard. A great advantage is obtained by the United States by hearing our case first, and for this very simple reason, during the whole time our evidence is being given before this Court they can be preparing their witnesses to meet it. There is always this advantage given to the defendant in every case. He has the privilege of hearing the plaintiff's testimony, and during the time the testimony is being given, he has the opportunity of preparing his answer. On the other hand, when the plaintiff comes to close the case, if there be an advantage in having the last word, the plaintiff has it. So the advantages are about balanced. A "frank" discussion, under the proposition submitted by the counsel for United States, simply means that the United States would get entirely the advantage in this cause. There is not the slightest desire on the part of the British Government or on the part of the Canadian government, represented here by the minister of marine, that one single fact should be kept back or forced out as against the United States; on the contrary, that they shall have the fullest opportunity of being heard; but we submit that not only the rules solemnly adopted by this tribunal, but the rules which govern the trial of ordinary causes, should not be departed from. We have given way a great deal, when we are willing to allow our learned friends who represent the United States to take the course they propose to this extent, that they shall make their oral speeches if they choose to do so, and if they choose, in addition, to put in a written argument, well and good, but they must do it at once, and that, if we please, we shall answer their written argument and speeches orally and by written argument, or by one of those modes only. We ought not to be asked to yield more.

Mr. DANA. Your excellency and your honors: From all the experience I have had in the trial of causes, where there has been examination of witnesses, it appears to me to be the best course to argue the facts of the case after the facts have been put in. Such is the practice in the United States, and I presume in Canada. This seems a simple proposition: that the time to argue upon the facts, to affect the minds of those who have to judge and determine, should be when it is fully ascertained what all the evidence is; and it is always dangerous, often inconvenient, and always illogical to argue upon supposed, assumed, supposititious, hypothetical testimony, which may never come before the Court.

I suppose your excellency and your honors understand my objection. It is to a rule which permits that when the plaintiff has put in all his evidence, and the witnesses have been cross-examined, the defendant's counsel may rise and state what he is instructed will be the testimony, what he supposes or assumes will be the testimony on his side, and then to make an argument upon that testimony, assumed and hypothetical as it is, and to contrast it with the testimony of the plaintiff, and deliver his mind fully and finally on the subject. This is dangerous and utterly unsatisfactory. Consequently in the United States, and I presume in the Dominion, the argument is made after it is known what the testimony is, because the plaintiff's counsel in an ordinary cause, or the counsel representing the Government here, may rise with full belief that it will be in his power to place the case in a certain position by his testimony, but it may turn out that he will be disappointed in his testimony, that the witnesses have not said all that he expected, and that the cross-examination reduced or altered the testimony. But there is another reason. When the defendant has put in his entire case there is the right of rebuttal possessed by the plaintiff, and the rebutting testimony may produce effects which the defendant's counsel had no reason to anticipate, and which, without directly contradicting his testimony, may place it in a new light. So I think every person will see, and I am quite sure this tribunal will see, it would be wasting time for us to attempt to impress by argument, comparison, and illustration, the effect of testimony which has not been put in. Now, when we speak of opening the case for the plaintiff or defendant, we do not mean arguing the case. On the contrary, an argument is not allowed by our practice in opening a case. All you can ever do in opening a case is to state very generally what kind of testimony you expect to produce, what you think will be the effect of it, and the positions of law to which that evidence is to be applied—mere signals of what is expected to be done. If in opening a case counsel attempts to say anything about the evidence put in on the other side, and argues on the character or effect of his own testimony, he is stopped, because he is arguing.

Now, if I recollect the rules of the Commission, there is a provision, not that the British counsel should argue the case upon supposed testimony, but that they should open their case and put in their testimony; then, not that we should argue upon their testimony and our supposed testimony, but that we should open our case by merely explaining what evidence is expected, and when all the testimony should be in, rebutting testimony included, then there was to be a complete printed argument on the testimony, the points of law, and everything connected with the case. The learned counsel for the Crown thought, wisely, no doubt, that it was not worth while to have an opening at all, and they did not make one. Now, your honors might have said, "We wish you would open your case, because we will better understand the testimony as it

comes in, and know how to apply it, and also the counsel of the United States will have a better opportunity to understand your case from the first, and be better able to cross-examine witnesses, and adopt what course they may see fit with better intelligence of your position." But the learned counsel for the British Government made no opening, and of that we made no complaint. Now, we are very much in the same position they were in then, only we have a much stronger reason than they had.

By this time, an opening, technically speaking, is not necessary. If the British counsel thought it was not necessary three weeks ago, it is much less necessary now, because this tribunal understands the main points taken on each side, and has a general view of the manner in which each side expects to meet them by testimony. As the counsel on the other side did not open the case, they would surely not think of maintaining that we should now open ours. We propose, as soon as they have concluded their evidence, to begin on our evidence. If this tribunal, or any member of it, should ask that, before we proceed to put in any testimony, we should make any explanation, we are quite ready to do it; or, if the counsel for the Crown should so desire, we are ready to do it. For ourselves, we do not propose to do so, but to go directly on with the testimony. We will then be on the same terms, neither side having opened, neither thinking an opening necessary or desirable. We shall then proceed with our testimony until it is completed; the rebuttal testimony will then be put in by the British counsel, and it is not until the rebuttal testimony is completed that this tribunal can be supposed to know on what facts it is to proceed. Now, do your honors think it is desirable to have an argument before you know on what facts you are to proceed? All the facts having been placed before the tribunal, then is the time to argue the question.

It may be said by the learned counsel that what I have so far stated is unnecessary, because they don't mean to compel us to open. But I think your honors will see it is well to understand in advance what is meant by an opening and an argument. When the whole of the evidence is before the tribunal, then comes the question, in what form can the counsel for the respective governments most beneficially to themselves, to their opponents, and, what is most important, to the tribunal that has the weighty responsibility of determining the case, present all the facts and the principles of law and policy to which they are applicable? Whatever mode will do that best is the one we ought to adopt. We, the Agent of the United States and, the two United States counsel, have made up our minds that it will be more satisfactory to the tribunal that has the judgment of the case, quite as fair to the opposite side, much more satisfactory to us, and more just to the United States, that the course which we propose should be taken. The only question is whether the course we propose should be adopted or the course proposed by the counsel for the Crown in amendment thereto. They seem to see that after the examination of witnesses and reading of affidavits, extending over a long period, an oral argument is advantageous; at all events they do not object to our making one. It is advantageous, because it can be done always with more effect. I do not mean more effect as respects the person who delivers the argument, but more effect on the course of justice, than a printed argument. When an oral argument is delivered, any member of the court who thinks the counsel is passing from a point without making it perfectly clear can ask for an explanation. We desire that this tribunal shall have an opportunity to ask, at any time during the argument, for an explanation, if any explanation is

needed. It is, moreover, a hardship to those who hand in a printed argument to be left in uncertainty as to whether further explanations may be necessary. I therefore think the experience of all engaged in ascertaining truth by means of witnesses and arguments shows that there should be an oral argument, if possible, on the testimony and such of the principles of law as are to be affected by it.

In this case it seems to be thought expedient also to have a printed argument. Perhaps it may be; but if it should be given up by both sides, we do not object. If there is an oral argument only and no printed argument, we shall be more careful in our oral argument to examine into all questions of law. If there is to be also a written argument, the oral argument would be confined more to the facts. Now, your honors, our suggestion is that we shall, as the defendant always does, when the evidence closes, argue the facts with such reference to principles as may be thought expedient. When that is done, it is the plaintiff's time to reply orally. The briefs are a different thing; the printed arguments are a different thing. In a great case like this—a question between the two greatest maritime powers of the world and intrusted to three gentlemen with absolute power over it—whatever will best tend to enable each side to understand the other fully, at the time when it is necessary to understand them, is for the benefit of justice. When we have made our oral argument, the counsel for the Crown will make their oral argument. If they choose to waive the privilege of making that oral argument, if they think their policy will be best subserved by making neither an opening nor a closing oral argument, which we cannot compel them to do, and by hearing all we can possibly say before their mouths are opened, and to have their only speeches made after our mouths are closed—if that is their view of policy, I should like to know whether the agent of the Crown here tacitly gives his consent to such a course of procedure; that is, that the American side shall be obliged to put in both its oral argument and its printed argument, when the other side has put in nothing, and then have an opportunity to close upon us without our knowing from their lips anything whatever. We have had what is called the British case and what is called the American case; but they are simply in the nature of pleadings. They do not go into the testimony, they do not argue the facts of the testimony, they do not state what the testimony is to be; they are of a general character, and in no sense arguments. I think this tribunal will agree with me on that point.

In regard to the amendment proposed by the other side, by which we will be compelled to put in our printed argument the moment we close our oral argument, I will suggest to your honors some objections to it. One objection is that we shall have to prepare our printed argument before we begin to speak. Would not that be a ridiculous position in which to place counsel? They would have to prepare and print a full argument, and then come into court and make an oral argument, and then hand in the printed argument. I hardly know how I could proceed with such an undertaking as that. But a stronger objection is this: They claim the right, under their amendment, to make an oral argument as well as a printed argument after we are through. So they are not going to open their mouths, and we shall not have the benefit of hearing anything from them in this case until our pieces are discharged and our ammunition exhausted. It is then the battle is to begin on the side of the Crown. Now, your honors will see that it comes right down to this: We propose that first an oral argument should be made on the testimony. Counsel on the other side agree that an oral argument on the testimony

is a good thing; at all events, they do not object that there is anything unreasonable in having the arguments on the facts postponed till the facts are known. The only question, then, is this: shall there be first an oral argument by the American side, and then an oral argument for the Crown, if the counsel for the Crown desire it, and then our printed argument to be followed by their printed reply; or shall we be compelled to put in both arguments before hearing anything from them?

The counsel for the Crown may rise and say they don't intend to make any oral argument, and thereby retain all the benefit of a policy of secrecy, and then it would be our duty to put in a printed argument. They can force us to this by simply declining to make an oral argument. Then they would come in with a printed argument which would be the final argument. Nothing we have proposed or can propose can prevent the counsel for the Crown having the closing words, because if our suggestion is adopted, first we will make an oral argument, then they may rise and say they do not wish to make one, then we must put in a printed argument, and then they will close with a printed argument; only they cannot get the advantage of refusing to make an oral argument at its proper time, and make it afterwards out of time. Their own proposition, on the other hand, is this: that they shall not be required to make an oral argument after we have closed ours, but shall have the right to transfer that oral argument from the stage immediately after ours, until the United States counsel have finished their oral argument and put in their printed final argument. Then the counsel for the Crown can argue orally on all the testimony, and in addition put in their printed argument. The result, therefore, your honors, would be that you yourselves would be placed under a disadvantage. You will hear our argument under a disadvantage; you will always be obliged to say to yourselves, "the American counsel have given us a printed argument, but we cannot expect to find in it adequate replies to arguments they never heard."

All the learned counsel on the side of the Crown have been able to say is, "We have submitted the case of Her Majesty's Government, and they have our case." I have reminded your honors what these cases are. Then as to the briefs. We put in a brief six weeks ago, and we were to have a brief from the counsel for the Crown, but we have not seen it yet, I suppose owing to the fault of the printers. That brief will not be a brief on our testimony; that, I suppose, I may assume.

Mr. FORD. Yes.

Mr. DANA. Therefore, as far as the facts are concerned, that brief can be of no use, and the original case of Her Majesty's Government will also be of no use to us. I hope your excellency and your honors will fully understand we consider an opportunity to argue the facts as of very great value to the United States, and we assume you consider it at all events your duty, how much value you may attach to it I cannot say, to give counsel the fullest opportunity to argue the facts with the knowledge of two things: First, what the facts are; and second, how our opponents propose to use and treat them.

Now, it seems to me that the most common justice requires that the result should not be that before we file our final printed argument, and leave this court and this part of the world, and return to our several homes, having done all we could do under the circumstances, we should not have heard by the ear, or read by the eye, one word that would explain to us what the counsel for the Crown think of our testimony or of their own, how they mean to use it, to what points they mean to apply it, what illustrations they mean to use. That will be our position if the proposal of the counsel for the Crown should be adopted. If we are

forced into that position by the counsel on the other side refusing to make an oral argument, we cannot help it; but I hope this tribunal will not give that course its sanction in advance, and so compel the result, that we must open everything and they nothing. The adoption of our proposal would be of very great advantage to us. I am not defending myself against a charge of trying to get an undue advantage, for under no possible construction of our proposed rule would it give us any advantage, except the opportunity to know fully what is the case on the other side, and if that is an advantage, it is a just advantage. But I wish to say that I am quite confident the learned counsel have not fully considered the position in which they place themselves, us, and the members of this court by the amendment they propose to-day. And it would give me great gratification to see them rise and withdraw it and say: "You may make your arguments on the facts orally when they are placed before the tribunal; we will then consider whether we wish to make an oral argument or not; if we do not, you will never know our views; if we do, you will get such knowledge as we see fit to disclose. Then you may put in your printed argument, and we will have the opportunity of putting in our printed closing argument, which ends all, unless the court should intervene and think the other side should have a reply, because some new points were made."

That power, of course, is possessed by the tribunal, and no doubt will be fairly administered. But I do not like to take my seat until I feel I have impressed on the Agent and learned counsel for the Crown the fact that, if we are compelled to make both our arguments before they are called upon to make any observations, and before we have heard what course they are going to take, it will be a very great disadvantage to us, especially when we consider they will be in possession of all we propose to say on the subject of the testimony and the facts. Now, the view which the learned counsel for the Crown may take of certain facts may be one that has not occurred to us. The illustrations they may furnish, and the manner in which they may deal with the various witnesses, are matters regarding which we have not the prescience absolutely to know. We have got, however, to make our oral argument without having this knowledge; but if our proposal is adopted we have at least the power of answering the other side in our printed argument. So it seems to me fair that before we put in our second argument we should have heard their first. I am quite sure this tribunal will feel, and never cease to feel, while you are discharging your present duties and afterward, if the amendment is adopted and the counsel of the United States compelled to deliver their arguments, written and oral, before the Crown had given us any idea of their views of the facts, how they mean to apply them to your honors' minds—that this, though fairly intended, is not fair, and you will say, "We find so much in the final argument of the counsel for the Crown on the testimony, which evidently was not foreseen by the counsel for the United States in making their argument, that, to give them an opportunity to reply, we must call them back."

We do not desire that, and your honors do not desire it. As the learned counsel on the other side do not object to our proposition in itself, but are willing to accept it upon a single condition, which condition would operate as I have shown, I trust your honors will say you cannot impose that condition upon us. I do not hesitate to say, although my learned friend, the Agent of the United States, is alone responsible for the course to be taken by the Government, we could not accept it and we would withdraw the proposal altogether. Then we would either

have to proceed with our testimony or make an argument in advance on hypothetical testimony. Therefore, the proposition of the Crown, unless forced upon us, which I have no idea will be done, will be declined by us, and we fall back on our own proposition. I need not remind your honors that it gives the counsel of the Crown the opportunity of declining to make an oral argument; nevertheless I think it would be in the interest, I will not say of counsel or of my own country, but of international justice, that they would let us know before we submit our final printed argument, what they propose to say about the facts of the case.

Mr. THOMSON. A great deal of Mr. Dana's argument, and it really was the chief argument, was not in reply to what I had to say in regard to the motion; in a great deal of what he said, I agree with him. I deprecate as he does arguing on hypothetical evidence. Such is not the practice in the United States or in our own courts. Who asks that the American counsel in this case shall argue on hypothetical evidence? Who asks that they shall be heard, either orally or on paper, on a mere hypothesis? Every fact and circumstance material to the case, both on the part of Her Majesty's Government and the United States, I assume, will have been presented before the counsel on the other side close their case. Then the counsel for the United States, as defendants in this case, will make their arguments, either orally or on paper, just as it seems best to them, supporting their own views of the case, and we, as counsel for Great Britain, will present to the court our arguments in answer to the arguments which they have adduced in support of their case. It was perfectly idle for Mr. Dana to have taken up so much time in arguing that they would be called on a mere hypothesis. Is it not idle to say to your excellency and honors, that you do not know what the case is about? Do we not all know what the points in issue are; do we not all see them? So well do the learned counsel see them that they absolutely declare they do not intend to open the case—that it is wholly unnecessary, as the court now understands every single view that is likely to be put forward. So they will understand, at the end of our case, every fact put forward by the British Government.

The points are salient and plain and are understood thoroughly by the Agents and counsel of Her Majesty and of the United States. How, then, can it be said there is any hypothesis at all? My learned friend (Mr. Dana) says I am asking that an amendment to the rules should be adopted. I am not. So far from that, the United States are coming in at this late stage of the proceedings and asking for an amendment of rules that were made in their present form, not merely by consent of, but I believe at the instance of the learned Agent of the United States. Can it, then, be said we are asking for any amendment to be made? They are asking as a favor that the court shall lay its hands on its own rules—rules made at the instance (and in the form they now are) of the American Agent. They are asking that as a favor, and at the instance of Her Majesty's Government, and with the consent of the minister of marine, I come forward and say on behalf of the two governments that they are quite willing to so far depart from these rules as to consent to an oral argument if the United States counsel think it is any advantage to have one, though the government I represent can see no such advantage.

I can understand that a jury may be led away from justice by specious arguments, but I apprehend that this tribunal will not be swayed by any such means, and that the epitomized statement of facts given by witnesses will have more effect than all the eloquence of the counsel on the other side. If the case is to be decided by the eloquence displayed in

the oral arguments, then I admit that Her Majesty's Government would stand at great disadvantage, but I do not think that eloquence will have a feather's weight in this case. I desire the court to understand distinctly that this is a motion made by the counsel of the United States to have the rules altered, and I come forward, for Her Majesty's Agent and the minister of marine, to state we are willing it shall be done as they wish, provided always they don't, in getting an inch, take an ell. They will have, if they think it is an advantage, the right to make a closing speech, but must immediately afterwards put in their closing printed argument. They are simply to support their own case. We are, then, simply called on to answer the case and argument in support of the speech they put forward, and nothing else. Not one principle of ordinary justice will be infringed or departed from. In conclusion, I must confess I cannot help feeling a little surprised at the manner in which Mr. Dana submitted the motion, for he put it in an almost threatening manner to the tribunal, that if it was not acceded to, the counsel for the United States would withdraw the proposition altogether. That is not the usual mode in which a favor is asked by counsel before a tribunal.

MR. FOSTER. I think I am entitled to a few words in reply. If the learned counsel (Mr. Thomson) had been present yesterday afternoon when I made the explanation which accompanied Mr. Trescott's motion, I think he would not have made the observations which he has made. This is what I said: When I came here I found myself met suddenly by five of the most eminent gentlemen who could be selected from the five maritime provinces, and, contrary to the expectations of myself and my government, they were to be admitted to take charge of this case, and they were assisted by a very eminent lawyer, now minister of marine, who is spoken of by counsel as having largely the conduct of this case. I alone, a stranger in a strange land, having no reason to suppose counsel would be brought here to assist me, found myself, I say, by the unexpected decision of the Commissioners, placed in such a position that, instead of meeting the British Agent, I had to meet the British Agent, the minister of marine, and five counsel. Now, to avoid five closing oral arguments against one, I was well content with the original arrangement of the rules. But the rules provided that they might be changed if in the course of proceedings the Commissioners saw fit to alter them; and as to our application being an application for a favor either from our opponents or the Commissioners, it is no such thing. It is an application to your sense of justice. Before a judicial tribunal there are no such things as favors. Decisions go upon the ground of right and justice, and especially so in regard to a treaty. Under the oath which the Commissioners have taken, equity and justice are made the standard of all their proceedings. Now, how are we placed? We have, in the first place, a much greater mass of testimony than I anticipated, or any of you anticipated, I presume. In the next place, we are on the eve of a much greater conflict of testimony than I anticipated; we see that very plainly. Then again, from prudential considerations, counsel on the other side saw fit not to open their case. It was a grievous disappointment to me; I could not help myself, as I saw at the time, and so said nothing. But it was a great disappointment to find they did not think fit in their opening to explain the views they intended to enunciate. As the testimony has gone forward for more than a month, it has become obvious to all of us that in a printed argument, prepared within ten days' time, and compressed within the necessary limits of a printed argument, we cannot examine this testimony, and cannot render the

tribunal the assistance they have a right to expect from counsel. It is, therefore, proposed that, instead of making opening oral arguments, which obviously would be quite inadequate, we should have the opportunity of making closing oral arguments, to be replied to by the British counsel, and then that the printed arguments should follow, giving them the reply then also.

Whatever we do, we are willing they should have the reply—the reply to our speeches, the reply to our writings. Is it possible that any arrangement could be fairer than that, or any arrangement more calculated to render your honors assistance in coming to a just and equitable conclusion? Now, I know my friend, the British Agent, does not mean to deal with this case so that batteries can be unmasked upon us at the last moment. I know the Commissioners will not allow such a course to be taken. Unless that is to be done, it is quite impossible that any unfair advantage would result to us, or that the British counsel would be in the least deprived of their admitted right to reply, which always belongs to the party on whom lies the burden of proof, by the course which we propose to follow. What we do desire is, that we should have the chance to explain our views fully before your honors orally; that we should then hear from counsel on the other side; and then that the printed summaries, which are to be placed in your hands to assist you, should be left with you when you go to make up your minds on this case. What do they lose by it? What can they lose by it? By omitting to make any oral arguments, as Mr. Dana has said, they can get the last word and unmask their batteries; but if printed arguments are to be made at all, does not common sense require that the printed arguments on both sides should follow the oral arguments on both sides? I put it to each member of the Commission, I put it my friend the British Agent, is not that the course which every human being knows will be most likely to lead to a thoroughly intelligent and just decision? If it was a matter of surprise; if we were before a jury, and a poor one; if it was one of those *nisi prius* trials, which we are sometimes concerned in, I could understand the policy of trying to have both oral and written arguments made against us after our mouths are closed forever; but I cannot understand it now. If the matter should be left as they desire to have it left, I venture to predict that either on our application, or more likely at your own request, we shall be called upon to reargue this case after the original arguments are supposed to be closed, for you will find in their final arguments, oral and written, matters which you will think common justice and fair play, for which Englishmen are said to be distinguished all the world over, require that we should have an opportunity to answer. They may close upon us orally, they may close upon us in writing, but as for their possessing the privilege of keeping their policy concealed till the last moment, I do not believe they really want it; I do not believe my friend the British Agent wants it; and if he does not want it, there is no conceivable objection to the adoption of the course we propose.

MR. DOUTRE. May it please your excellency and your honors: My learned friend, Mr. Dana, has spoken of the usages of the courts in different countries, and with those observations we might have agreed, until he came to claim a most extraordinary thing, and one which I am sure our learned and experienced adversaries never heard of being conceded in any country in the world—that the defendant should have the reply. My conviction is that there is no danger in challenging our friends to name any court in the world where the defendant has the right to reply. I think we would be far below the standard given to us in the compli-

ments of our learned friends if we did not see very clearly the course which they propose to follow. They would have the means of meeting everything we could state; and anything we might state after that, I don't conceive what it could amount to. It may strike persons not familiar with courts of justice that it is strange we should insist on having the last words, and our friends magnify that extraordinary desire on our part to point out that we have not to deal here with a jury, which might be misled by the elegance of some skillful lawyer, but that we have to deal with a far higher order of judges. This I admit. But I would like my learned friends to explain the strenuous efforts they are making to get that reply. It is nothing but such a demand that my learned friends are putting forward. Our American friends have been so extraordinarily lucky in all their international difficulties that they have arrived at the last degree of daring. We are living in hope that some time or other the balance in connection with international difficulties between England and the United States will turn on the right side. I do not know if we are in the way of reaching such fortunate result, but we live in that hope. Our learned friends on the other side pretend that they have been placed at a disadvantage from the fact that we did not, as they say, open our case. We did open our case. We opened through Mr. Thomson, who stated to the Commission that all he had to say was printed, cut, and dried, and ready to be read; that it set out the case in better language than he could have used in a speech, and that there was nothing to add to or take from it. I think this was the best opening that could have been made, otherwise our learned friends might have complained and said they expected to have obtained more detailed information about the case. But they felt it was a saving of time, and they have expressed the opinion to-day that it would have served no real interest to have gone any further than Mr. Thomson proceeded. Mr. Dana has complained that the brief which has been filed by the American agent has not yet received an answer. I think we are not bound to answer the brief. If we do so it will be merely out of courtesy to our friends. Our answer might come in our final written argument, and there is no reason whatever, and no right on the part of the counsel of the United States to demand to have it sooner than that. If we choose not to answer it even then, I question if we can be required to answer it; so that if we give an answer to their brief it will be a mere matter of courtesy, because we are not bound to do so.

MR. DANA. Do we understand there is to be no answer?

MR. DOUTRE. I do not say so. While I think we will file an answer, it will be done out of courtesy to the counsel for the United States. We have been told we are keeping masked batteries for the last moment. I would like to know where we would find ammunition to serve those batteries. Is not all our case in the documents filed, in the depositions of the witnesses, and in the affidavits? Can we bring anything more to bear? They are our ammunition; they are all here; our hands are empty, and we have no more to serve any masked batteries. The argument may be very plausible, that in a large question, involving two great countries, it is necessary that everything should be done which tends to enlighten the minds of the judges so that a just result may be secured; but that argument, your honors will understand, would be as good in every court in the world to obtain for the defendant the last words and change all the rules of judicial tribunals. Hon. Mr. Foster says he has been induced to agree to the demand now under discussion because when he saw he was going to be met, contrary to the expectation of his government, by five gentlemen, whose talents he magnifies for the oc-

easion, because it suits the purpose he has in view, he thought he would be under a disadvantage if the rule in question should be maintained. If we go back to the time when the rule was adopted it will be recollected that the five lawyers on behalf of the British case were then before the Commission. If they were not admitted, it was known for several weeks that the British Agent intended to be assisted by counsel; so the fact was fully before every one of us when the rules were adopted. Now we are asked to change these rules. So long as it is a matter of convenience and pure courtesy to the United States, we have no difficulty in acceding to their request, and in doing this we are acting within the terms of the written document under discussion, which says:

As we understand the wish of both governments to be that the whole discussion should be as frank and full as possible, it has occurred to us that you might be disposed to allow us to adopt such an arrangement as would, in our judgment, best enable us to lay before you a complete presentment of the opinions of the government we represent, and we feel more assured in that opinion as this privilege deprives counsel on the other side of no advantage which they now possess, for besides the right to reply to the printed argument, which they now have, we would, of course, expect that they would also be allowed the right of oral reply if they desired to exercise it.

So far this is perfectly correct, but it does not show their hands to us at all. We do not see their real object, for there is a masked battery.

Apparently a very simple alteration of the rule is asked for, and our friend Mr. Trescot thought yesterday that it was so unobjectionable that it would be immediately acceded to. Well, if this paper had stated the whole truth, and did not cover anything which is not mentioned, we should have accepted it immediately, as has already been stated by my brother counsel. But we suspected that this slight alteration conceded something, and we were not mistaken.

Mr. TRESHOT. What is it?

Mr. DOUTRE. I will explain it, certainly. Mr. Dana says, "You have a reply." Certainly we have the reply, but we might reply in eight months from this, and it would be just as good. Here is the practical result: if the proposition, which is not included in this paper, but which has been admitted verbally, were accepted, our learned friends would develop their case orally, and we would answer orally. They would then come with their printed statement. Now, is not this the reply? What would remain for us to say? What would be the value of that printed document which we could give afterward? What new aspect or *exposé* of our case could it contain? None whatever, so that virtually it gives our friends the reply, and that is the reason why they are insisting so strongly upon the change in the rule.

Mr. DANA. You take the objection that under our proposed rule you would not be able to put in anything new?

Mr. WEATHERBE. All you asked for was to substitute an oral for the written argument?

Mr. TRESHOT suggests that it would be better if he were now allowed to read the amendment which he proposes to submit.

Mr. WEATHERBE. It would have been better that we should have had it last evening.

Mr. TRESHOT. It is entirely in accordance with the paper which I read last evening.

SIR ALEXANDER GALT. We should have had the precise proposed alteration of the rule before us before hearing this argument.

Mr. TRESHOT. It is precisely the same as what was laid before the Commission. I will read it. The third rule reads this way:

The evidence brought forward in support of the British case must be closed within a period of six weeks after the case shall have been opened by the British counsel,

unless a further time shall be allowed by the Commissioners on application. The evidence brought forward in support of the United States counter case must be closed within a similar period after the opening of the United States case in answer, unless a further time be allowed by the Commissioners on application. But as soon as the evidence in support of the British case is closed that in support of the United States shall be commenced, and as soon as that is closed the evidence in reply shall be commenced. After which arguments shall be delivered on the part of the United States in writing within a period of ten days, unless a further time be allowed by the Commissioners on application, and arguments in closing on the British side shall be delivered in writing within a further period of ten days, unless a further time be allowed by the Commissioners on application. Then the case on either side shall be considered finally closed, unless the Commissioners shall direct further argument upon special points, the British Government having in such case the right of general reply, and the Commissioners shall at once proceed to consider their award. The periods thus allowed for hearing the evidence shall be without counting any days of adjournment that may be ordered by the Commissioners.

The amendment which we would move would be to insert after the words "the evidence in reply shall be commenced," the following: "When the whole evidence is concluded either side may, if desirous of doing so, address the Commission orally, the British Government having the right of reply."

Mr. DOUTRE. I understand this, but it is not the motion under discussion. I have read the principal part of that motion, and I say this, that, if we take this to mean what our friends had in their minds when they made their application, the only alteration that this rule would require would be this, "after which argument shall be delivered on the part of the United States, orally or in writing, within a period of ten days, unless further time be allowed by the Commissioners on application, and arguments in closing the British case shall be," etc.

Mr. TRESCOT. That is what Mr. Thomson proposes.

Mr. DOUTRE. Exactly; and this does not give any more. But there was in their minds more than this contains. We have it in their verbal explanations.

Mr. TRESCOT. So far as the construction of language goes, I have no objection to your putting any construction you please or drawing any inferences you choose from the language of the application that was made last night. But that the intention of that application and of the amendment we propose to-day were one and the same thing, there can be no doubt. When we filed that paper what was wanted was distinctly known, otherwise it would have been bad faith on our part, as we would have been asking for one thing and intending to get another. There was no possible doubt what the object of this was, as is evident from the fact Mr. Thomson suggested an amendment himself to counteract our object, showing that he had clearly in mind what object we had in view.

Mr. DOUTRE. My answer is that by reading this we suspected the object of this paper was something more than to change the time when our learned friends should address the Commission. It only meant that instead of doing so before adducing their evidence they would do so after the whole of the evidence had been brought in. The object that our friends have in view is very clear in the paper which has been read here to-day by Mr. Trescot, but it is not so in the paper which was presented yesterday, and we suspected this was an indirect way of securing that which is not known in any court in the civilized world, namely, that the defendants should have the reply. They would have twice the opportunity of discussing the matter, when they have no right to be heard more than once. Now, why is the reply given to the plaintiffs? Because up to that moment the position of the defendants is far more privileged. They have all the evidence of the plaintiffs in their hands,

and they know what they are themselves going to prove. The plaintiff does not know it. When we shall have closed our evidence, they will have the whole case in their hands, while we have only half of it. For that and other reasons the final reply is given to the plaintiff, and we object to our friends in this manner seeking to upset the rules which prevail in all courts of justice that ever existed.

Mr. DANA. I beg that you will not sit down without explaining how you lose the reply.

Mr. DOUTRE. We have a reply which is worth nothing; that is what I mean. The virtual and practical reply is in your hands. That is exactly the position. I think it is necessary, in order to preserve the harmony that has so far existed here, we should not introduce in this Commission a practice which has never existed in any court, that one of the counsel should pass over the head of his legal adversary in order to reach the suitor and ask him if he agrees to what his counsel proposes. Such a course as that would tend materially to impair the good relations which we all, I think, desire to cultivate.

Mr. TRESCOT. I have no intention of saying one word that could disturb the relations that exist between the counsel on either side, and I have no fear that anything could be said on either side that would have such a result. For that reason I don't object, as I perhaps might, to the application which I made yesterday being characterized as a masked request. When I read that document yesterday I had no earthly doubt that every man present knew what I wanted. So far from having any doubt about the matter, I may say that both the honorable Minister of Marine, who appears to be of counsel with the other side, and the Agent of the British Government, distinctly informed us that they would consent to this petition if we may call it such, provided we would take the proposition submitted by Mr. Thomson. Now there can be no doubt that when that proposal was made they understood what it was we wanted. We stated as distinctly that we declined to accept any such proposition, and that the course they pursued was one that could not meet our approval. All I am anxious to do now is to clear myself of the accusation, for such I think it is, of having submitted a paper which asked for one thing when I wanted the Commission to do another thing.

Sir ALEXANDER GALT. I do not think the Commission ever attributed such a design to you.

Mr. WEATHERBE. Will you read the part of the paper presented yesterday which says what you wanted the Commission to do?

Mr. TRESCOT. It is as follows: "As we understand the wish of both governments to be," &c. Now, what does that mean? What can it mean but that when we made an oral argument they would make an oral reply, and when we presented a printed argument their printed argument would be put in? I believe that the matter was so understood, and I have misunderstood the whole scope of the argument this morning if every gentleman who has addressed the court has not argued upon the request I made. The whole argument on the other side has been for the purpose of showing that we ought not to have what we asked for. Then how can I be told that the learned counsel did not understand what I wanted? I do not know what the practice may be here, but I have never been in a court in which, if there were several counsel on each side, they did not address the court alternately, so that each side might possess the argument of the other side.

Mr. WEATHERBE. That is not the practice in England.

Mr. TRESCOT. That may be. I only undertake to say what we want

and what we consider a fair course to all parties. But I am asked what is the use of such a reply? I answer, just such use as you choose to make of it. We only ask to know your case, and then having met it to the best of our ability, you can reply to our argument as you deem most judicious. Let me illustrate what I mean. You all recollect the testimony as to the Bay de Chaleur—that fishing was only prosecuted on its shores—that in “the cores of the bay,” to use the language of the witnesses, there was no fishing. Now, if this is so, practically the question of the headlands is put aside, for it makes no difference whether we come within the headland line or not. But suppose, in reply, we prove that there is fishing within the body of the bay more than three miles from either shore—how then? Recollect that up to this point, although we have been promised your brief on the headland question, we have not had it. Do you mean simply to discuss our testimony, or to maintain the doctrine of the headland line? Under your proposed arrangement we would have to make our argument without the slightest knowledge of what you intended to maintain. Whereas, under our arrangement, we would know exactly what you thought, and although we might attempt an answer, you would have the clear right to meet that answer by your final reply as you thought fit.

But I have no intention of prolonging this argument further. I think we have stated with sincere fairness what we mean, and that it is obvious that the right of final reply is preserved to the counsel on the other side. Their purpose is equally obvious to keep back in their discretion just as much of their case as they do not choose to give us the opportunity to reply to. If this Commission deems such reticence proper, we must accommodate our arguments to their decision, and be content with having said what we think justice required.

Hon. Mr. KELLOGG. I should like to say, with the permission of the other Commissioners, that I rather expected the motion would have been put in due form last night, but I hope that this delay or omission, which has given rise to a little misunderstanding, will not be a reason for exciting any feeling. I am anxious, for one, that in our proceedings we should observe the kind of conduct that we have observed so far, and I have no idea that any thought of getting any such advantage was entertained when the application was made last night.

I want to observe one thing further, with the leave of the other Commissioners, that in discussing these questions which have arisen, and which may still arise, we should observe due moderation, and not get into personal disputations with one another, but address the tribunal as the one which will settle the matter eventually.

Decision given by the Commissioners on the 1st day of September, 1877.

The Commissioners having considered the motion submitted by Messrs. Dana and Trescot, decided that—

Having due regard to the right of Her Majesty's Government to the general and final reply, the Commissioners cannot modify the rules in such a manner as might impair or diminish such right. Each party will, however, within the period fixed by the rules, be allowed to offer its concluding argument either orally or in writing, and if orally, it may be accompanied by a written résumé, or summary thereof, for the convenience of the Commissioners, such résumé or summary being furnished within the said period.

III.

At the conference held on the 5th of September, 1877.

Mr. Foster. I will read the motion that was presented on the 1st instant:

The Counsel and Agent of the United States ask the honorable Commissioners to rule declaring that it is not competent for this Commission to award any compensation for commercial intercourse between the two countries, and that the advantages resulting from the practice of purchasing bait, ice, supplies, &c., and from being allowed to tranship cargoes in British waters, do not constitute a foundation for award of compensation, and shall be wholly excluded from the consideration of this tribunal.

The object, may it please the Commission, of this motion is to obtain, if it be possible, and place on record, a decision declaring the limits of your jurisdiction, and thus to eliminate from the investigation matters which we believe to be immaterial and beyond the scope of the powers conferred upon you. The twenty-second Article of the Treaty of Washington is the charter under which we are acting, and this provides that—

Inasmuch as it is asserted by the Government of Her Britannic Majesty that the privileges accorded to the citizens of the United States under Article XVIII of this treaty, are of greater value than those accorded by Articles XIX and XXI of this treaty to the subjects of Her Britannic Majesty, and this assertion is not admitted by the Government of the United States, it is further agreed that Commissioners shall be appointed to determine, having regard to the privileges accorded by the United States to the subjects of Her Britannic Majesty, as stated in Articles XIX and XXI of this treaty, the amount of any compensation which, in their opinion, ought to be paid by the Government of the United States to the Government of Her Britannic Majesty in return for the privileges accorded to the citizens of the United States under Article XVIII of this treaty.

The subject of our investigation, then, is the amount of any compensation which ought to be paid by the United States to Her Majesty in return for the privileges accorded to the citizens of the United States, under Article 18 of the treaty, and that is all. The other articles referred to in this section, Articles 19 and 21, are set-offs or equivalents, received by Her Majesty's subjects for the concession made by Her Majesty's Government to United States citizens under Article 18. When we turn to Article 18 we find that the High Contracting Parties agreed as follows:

It is agreed by the High Contracting Parties that, in addition to the liberty secured to the United States fishermen by the Convention between Great Britain and the United States, signed at London on the 20th day of October, 1818, of taking, curing, and drying fish on certain coasts of the British North American Colonies therein defined, the inhabitants of the United States shall have, in common with the subjects of Her Britannic Majesty, the liberty for the term of years mentioned in Article XXXIII of this treaty to take fish of every kind, except shell-fish, on the sea coasts and shores, and in the bays, harbors, and creeks of the Provinces of Quebec, Nova Scotia, and New Brunswick, and the colony of Prince Edward Island, and of the several islands thereto adjacent, without being restricted to any distance from the shore, with permission to land upon the said coasts and shores and islands, and also upon the Magdalen Islands, for the purpose of drying their nets and curing their fish: provided that, in so doing, they do not interfere with the rights of private property, or with British fishermen, in the peaceable use of any part of the said coasts in their occupancy for the said purpose. It is understood that the above-mentioned liberty applies solely to the sea-fishery, and that the salmon and shad fisheries, and all other fisheries in rivers and the mouths of rivers, are hereby reserved exclusively for British fishermen.

The concession made to the citizens of the United States is the right to fish inshore without being excluded three miles from the shore, as they were excluded by the renunciation contained in the Treaty of 1818. It gives the further right to land on the coasts and shores and islands for the purpose of drying nets and curing fish, provided that in so doing they do not interfere with the rights of private property for British

fishermen having the peaceable use of any part of the said coasts in occupancy for the same purpose. The liberty of inshore fishing and that of landing on uninhabited and desert coasts, where no private rights or rights of private property will be interfered with, for the two purposes of drying their nets and curing their fish, are all the concessions which Article 18 contains. Now, as we understand it, the jurisdiction of this Commission extends to appraise these two privileges, and nothing more; but the British claim seeks compensation for various incidental advantages, and a variety of other considerations. The inhabitants of the United States traffic with the colonists. They buy ice of them; they buy of them fish for bait; and they buy of them other supplies. They have commercial intercourse with them; they sell to them small codfish better adapted for the British markets than those of the United States. They exchange flour, kerosene, and other necessities of life with the British fishermen, receiving in return bait and fish. For all these things compensation is demanded at your hands.

In addition to that, every description of damage that has been done or which may be done hereafter by our fishermen is made the foundation of claims for compensation. The treaty speaks of compensation to be awarded in return for privileges accorded to the citizens of the United States, while the case made and the evidence offered claims damages as well.

Have any of our fishing vessels lee-bowed—I believe that is the proper phrase—British fishing boats in former years, or are they likely to do it again? Are the fishing grounds hurt by gurry thrown into the water? Have families been alarmed by American fishermen on shore? Every description of injury and outrage, intentional or unintentional, great or small, going back to a period as far as human memory extends, is laid before you as ground for damages. The colonial governments have erected light-houses on their coasts at dangerous points, and the perils of navigation are thereby diminished; so they present an estimate of the cost and a list of the number of the light-houses, and gravely ask you to take these things into consideration in making up your award. Whatever has to do with fishing, or fishermen, or fishing vessels, directly or indirectly, nearly or remotely, is brought before you and made the foundation of a claim. The British case and its evidence seems to me to be a drag-net, more extensive than the purse seine of which we have heard so much, gathering in everything that can be thought of and laying it before you, if by any means, consciously or unconsciously, the amount of such award as you shall render may thereby be affected. Now it seems to us, under these circumstances, to be a plain duty to ascertain if we can, and to have recorded, exactly the grounds of your jurisdiction as in your judgment they exist. We understand, as I have said, that you are simply to determine the value of the inshore fisheries, and the value of the right of landing to cure fish and dry nets where this can be done without interfering with private property or British fishermen drying nets. From the beginning we have protested against any more extensive claim being made; this protest will be found distinctly and unequivocally made on page 8th of the "Answer," where it is said:

Suffice it now to observe that the claim of Great Britain to be compensated for allowing United States fishermen to buy bait and other supplies of British subjects has no semblance of foundation in the treaty, by which no near right of traffic is conceded.

And in the recapitulation at the close of the "Answer," the United States maintain that the various incidental and reciprocal advantages of the treaty, such as the privileges of trafficking and purchasing bait and other supplies, are not a subject of compensation, because the

Treaty of Washington confers no such rights on the inhabitants of the United States, who now enjoy them merely by sufferance, and who can at any time be deprived of them by the enforcement of existing laws or the re-enactment of former oppressive statutes. We say first, that you have no jurisdiction over such matters as a subject of compensation, because the treaty confers none upon you and nothing of the kind is denominated in the bond. We say secondly, that we have no vested rights under the treaty, regarding commercial intercourse of this description; and that as regards such intercourse, the inhabitants of the United States stand in the same relation to the subjects of Her Majesty as they did before this treaty was negotiated. These two points though running somewhat together are nevertheless distinct. And we base our contention upon the plain language of the treaty, in which not one word can be found relating to the right to buy or sell, to traffic or transfer cargoes; the whole language is limited to the privilege of the inshore fisheries, both in Article 18, where these privileges are conferred, and in Article 22, which provides for the appointment of this Commission. Of course, it is not necessary for me to call your attention to the fact that commissioners, arbitrators, referees, and every other description of tribunals, are limited in their powers by the terms of the instrument under which they act; and that if they include in any award, a thing upon which they are not authorized to decide, the entire award is thereby vitiated; and their whole action becomes *ultra vires*, and void. I cannot anticipate that there will be any denial of this plain proposition.

Now, the Commissioners will be pleased to observe, and our friends on the other side to take notice, that the United States utterly repudiate any obligation either to make compensation or pay damages for any of these matters; that they maintain, as they have from the first, that the question submitted here is solely and exclusively the adjustment of equivalents relating to the inshore fisheries; and that the United States will not be under the slightest obligation to submit to an award including anything more than these things. Turning to the treaty again, we find that there are commercial articles in it, but these are not articles with which this tribunal is concerned. From Article 26th to the 31st, inclusive, various commercial privileges are given to the citizens of the two countries. These articles relate to the navigation of the lakes, rivers, and canals, to the conveyance of goods transhipped in bond free of duty, to the carrying trade; and as to them the Treaty of Washington is a Reciprocity Treaty. As to these matters, that which is conceded on the one side is an equivalent for that which is conceded on the other, and the mutual concessions are the sole equivalents for each other. Indeed, who ever heard of a treaty of commercial reciprocity where a money payment, to be ascertained by arbitration, was to balance concessions granted by the one side to the other? It is enough to say that in these commercial clauses of the Treaty, as in all other commercial arrangements that have ever been made between the two countries, there is no stipulation for compensation. It may be well to inquire on what footing the commercial relations between the United States and Great Britain do rest. How have they stood for more than a generation past, for nearly a hundred years? My friend, Mr. Trescot, has investigated the treaties, and the result, as I understand it, is this: that the Commercial Convention of 1815, originally entered into for four years, was extended during ten years more by the Convention of 1818, and extended again indefinitely in 1827. The last clause of the second article of the Convention of 1815, after providing as to the duties to be levied on the products of each country, &c., and as to the commercial inter-

course between the United States and Her Majesty's subjects in Europe, states—

The intercourse between the United States and His Britannic Majesty's possessions in the West Indies, and on the continent of North America, shall not be affected by any of the provisions of this article, but each party shall remain in the complete possession of its rights, with respect to such an intercourse.

Thus the commercial intercourse between the two countries is provided for by the Treaty of 1815, which, as I understand it, under its various extensions, is in force to-day. It refers back to former and pre-existing rights, to find which it is necessary to go still further back—to the Treaty of 1794, commonly known as Jay's Treaty. Turning to that we find that the third article deals with the special relations between the United States and the British North American Colonies. It might be supposed—and the argument perhaps might be correct, though I do not say whether this would be the case or not—that the war of 1812 abrogated the provisions of the Treaty of 1794, were it not that the Commercial Convention of 1815 referring to previous existing rights, quite manifestly, I think, treats as still in force the provisions of this article of the Treaty of 1794. I will not read the whole article, but it stipulates "that all goods and merchandise whose importation into His Majesty's said territories in America, shall not be entirely prohibited, may freely and for the purposes of commerce be carried into the same in the manner aforesaid by the citizens of the United States, and that such goods and merchandise shall be subject to no higher or other duties than are payable by His Majesty's subjects, on importing the same into the said territories; and in like manner, that the goods and merchandise whose importation into the United States shall not be wholly prohibited, may freely for the purposes of commerce be carried into the same by His Majesty's subjects, and that such goods and merchandise shall be subject to no higher or other duties than are payable by the citizens of the United States on importing the same in American vessels into the Atlantic ports of the said States; and"—mark this—"that all goods not prohibited from being exported from the said territories, respectively, may, in like manner, be carried out of the same by the two parties, respectively, on paying duty as aforesaid"; that is to say, as I understand it, the inhabitants of each country going for the purposes of commerce to the other country, may export its goods, so long as their exportation is not wholly prohibited, upon the same terms as to export duties as would be imposed on Her Majesty's subjects. Then the article after some other paragraphs closes thus: "As this article is intended to render, in a great degree, the local advantages of each party, common to both, and thereby to promote a disposition favorable to friendship and good neighborhood, it is agreed that the respective governments will mutually promote this amicable intercourse by causing speedy and impartial justice to be done, and necessary protection to be extended to all who may be concerned therein."

Gentlemen, such I understand to be the footing on which commercial intercourse stands between the two countries to-day, if there is any treaty that governs commerce between the British North American Provinces and the United States. And if this is not the case, the relations between the two countries stand upon that comity and commercial freedom which exist between all civilized countries. The effect of these provisions, to employ an illustration, is this: If the Government of Newfoundland chooses to prohibit its own people from exporting fish for bait, in which export, it is testified, they carry on a trade of £40,000 or £50,000 annually with St. Pierre, it can also, by the same law, prohibit United States

citizens from carrying away such articles, but not otherwise. As I understand the effect of this commercial clause, whatever may be exported from the British Provinces by anybody—by their own citizens, by Frenchmen, or by citizens of other nations at peace with them—may also be exported by citizens of the United States on the same terms, as to export duty, that apply to the rest of the world. If, then, Newfoundland sees fit to conclude that the sale of bait-fish—caplin, or herring, or squid—and ice is injurious to its interests, and therefore forbids their export altogether, that prohibition may extend to the citizens of the United States; but the citizens of the United States have there the same privileges with the rest of the world; they cannot be excluded from the right to buy and take bait out of the harbors of Newfoundland, unless the rest of the world is also so excluded. However, this is of remote consequence, and perhaps of no consequence, to the subject under discussion.

The material thing is this: Under the Treaty of Washington we cannot prevent such legislation. The Treaty of Washington confers upon us no right whatever to buy anything in Her Majesty's dominions. The Treaty of Washington is a treaty relating to fishing and to nothing else. I am aware of the ground taken in the reply filed by the British Agent. It is this:

Previous to the date of the Treaty of Washington, American fishermen were, by the 1st Article of the Convention, of 1818, admitted to enter the bays and harbors of His Britannic Majesty's dominions in America for the purpose of shelter and of purchasing wood and of obtaining water and *for no other purpose whatever*.

By the terms of Article 18 of the Treaty of Washington, United States fishermen were granted "permission to land upon the said coasts and shores and islands, and also upon the Magdalen Islands for the purpose of drying their nets and curing their fish."

The words "*for no other purpose whatever*" are studiously omitted by the framers of the last-named treaty, and the privilege, in common with the subjects of Her Britannic Majesty, to take fish and to land for fishing purposes, clearly includes the liberty to purchase bait and supplies, transship cargoes, &c., for which Her Majesty's Government contend it has a right to claim compensation.

Well, as the quotation stands, to my mind it would be a *non sequitur*, but when you turn to the 1st Article of the Convention of 1818, you find that under it the conclusion quoted is a renunciation accompanied by two provisos:

And the United States hereby renounce forever any liberty heretofore enjoyed or claimed by the inhabitants thereof to take, dry, or cure fish on or within three marine miles of any of the coasts, bays, creeks, or harbors of His Britannic Majesty's dominions in America, not included in the above-mentioned limits.

This was a renunciation of the right to fish inshore, and it is followed by this further proviso:

Provided, however, that the American fishermen shall be admitted to enter such bays or harbors for the purpose of shelter and of repairing damages therein, of purchasing wood, and of obtaining water, and *for no other purpose whatever*.

This coupled the renunciation of the inshore fishery with the proviso, that there may be resort to British waters for shelter and repairs, and for obtaining wood and water. Then it goes on to say:

But they shall be under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein, or in any other manner whatever abusing the privileges hereby reserved to them.

Whenever American fishermen seek British ports for shelter, or go there to repair damages to their vessels, or for wood and water, they shall be under restrictions to prevent them from taking or curing fish therein. Now it was to remove those restrictions which prevented them from taking, drying, and curing fish, that the language framed in the 18th Article of the Treaty of Washington was adopted, which gives the

citizens of the United States liberty to take fish, and permission to land upon the said coasts and islands, and also on the Magdalen Islands for the purpose of drying nets and curing fish. You will observe that the United States renounced the right to the inshore fisheries in 1818, but these are regained by the provisions of the 18th Article of the Treaty of Washington. The United States retained the right of resorting to British ports for shelter, repairs, and purchasing wood and water, subject to such regulations as would prevent their citizens drying fish on the shore; and the object of this article is to add to the inshore fisheries the right to dry nets and cure fish on the shore, and this superadded right is limited to parts of the coast where it does not interfere with private property, or the similar rights of British fishermen. Now, what argument can be constructed from provisions like these to infer the creation of an affirmative commercial privilege or the right to purchase supplies and transship cargoes, I am at a loss to imagine. It seems to me that if I were required to maintain that under the right conceded to dry nets and cure fish on unoccupied and unowned shores and coasts, taking care not to interfere with British fishermen, couched in language like that, the United States had obtained a right to buy what the policy of the British Government might forbid to be sold, I should not have one word to say for myself. I cannot conceive how a commercial privilege can be founded upon that language, or how you can construct an argument upon that language in support of its existence. But, gentlemen, this is not to be decided by the strict language of the treaty alone. We know very well what the views of Great Britain on such subjects are, and we know what the policy of Her Majesty's Government was just before this treaty was entered into. On the 16th of February, 1871, Earl Kimberley wrote to Lord Lisgar as follows:

The exclusion of American fishermen from resorting to Canadian ports, except for the purpose of shelter, and of repairing damages therein, purchasing wood, and of obtaining water, might be warranted by the letter of the treaty of 1818, and by the terms of the Imperial Act 59, Geo. III. Chap. 38, but Her Majesty's Government feel bound to state that it seems to them an extreme measure inconsistent with the general policy of the empire, and they are disposed to concede this point to the United States Government under such restrictions as may be necessary to prevent smuggling, and to guard against any substantial invasion of the exclusive rights of fishing which may be reserved to British subjects.

A month later, on the 17th of March, 1871, another letter from Earl Kimberley to Lord Lisgar gives to the colonial authorities this admonition:

I think it right, however, to add that the responsibility of determining what is the true construction of a treaty made by Her Majesty with any foreign power must remain with Her Majesty's Government, and that the degree to which this country would make itself a party to the strict enforcement of treaty rights may depend not only on the liberal construction of the treaty, but on the moderation and reasonableness with which those rights are asserted.

In such a spirit, and with these views of commercial policy, the Treaty of Washington was negotiated; and can one believe that it was intended to have a valuation by arbitration of the mutual privileges of international commerce? Gentlemen, suppose that the Canadian representative on the Joint High Commission, when the 18th Article was under consideration, had proposed to amend it by adding in language something like this: and the said Commissioners shall further award such compensation as, in their judgment, the United States ought to pay for its citizens being allowed to buy ice, and herring, squid and caplin, of Canadians and Newfoundlanders, and for the further privilege of being allowed to furnish them with flour, and kerosene oil, and other articles of merchan-

dise in exchange for fish and ice, and for the further privilege of being allowed to sell them small codfish; suppose, I say, that an amendment in these or similar words had been suggested to the members of the High Joint Commission; fancy the air of well-bred surprise with which it would have been received by Earl Grey and Professor Bernard and others. Imagine England—free-trade England—which forced commercial intercourse upon China with cannon, asking for an arbitration to determine on what price England, that lives by selling, will trade with the inhabitants of other countries.

I venture to express the belief that the ground which has been taken here is not the ground that will be sustained by the English Government, and that my friend, the British Agent, will receive from Her Majesty's ministers the same instructions that I shall certainly receive from the President of the United States, viz, that at the time when the Treaty of Washington was negotiated no one dreamed that such claims as I have been referring to would be made, and that neither government can afford to insist upon or submit to anything of the kind, because it is contrary to the policy of the British Empire, and contrary to the spirit of civilization. If the language were at all equivocal these considerations would be decisive, but with the express limits to your authority laid down they hardly need to be asserted.

The next question is whether the motion that has been made should be decided by you at the present stage in your proceedings. We have brought it before you at the earliest convenient opportunity.

The case of the British Government was not orally opened, and in our pleadings we had interposed a denial of the existence of any such jurisdiction. If the matter had been discussed in an opening we might have replied to it, but as it was we could not. The case proceeded with the introduction of evidence: Now, if the evidence offered in support of these claims could have been objected to we should have interposed the objection that such evidence was inadmissible; but we could not do that, and why? Because the treaty expressly requires the Commission to receive such evidence as either government may choose to lay before it. To avoid the manifold inconvenience likely to result from discussing the admissibility of evidence, it was stipulated and we have allowed—I suppose with the approbation of the Commissioners—every piece of evidence to come in without objection. We conceived that we were under obligation to do so. We could not bring the question up earlier, and we bring it up now, just before our case commences, and say, that we ought to have it now decided; first, as a matter of great convenience, because the course of our evidence will be affected by your decision. There is much evidence which we shall be obliged to introduce, if we are to be called upon to waive the comparative advantages of mutual traffic, that would otherwise be dispensed with, and that we think ought to be dispensed with. Moreover, we maintain that we are entitled to have your decision now on grounds of precedent. A precisely similar question arose before the Geneva Arbitration. The United States made a claim for indirect or consequential damages. That claim appeared in the case of the United States, and its evidence which were filed on the 15th of December. The British case was filed at the same time, and on the 15th of the next April Lord Tenterden addressed this note to the Arbitrators:

GENEVA, April 15, 1872.

The undersigned, agent of Her Britannic Majesty, is instructed by Her Majesty's Government to state to Count Solopis, that, while presenting their Counter-Case, under the special reservation hereinafter mentioned, in reply to the Case which has been presented on the part of the United States, they find it incumbent upon them to inform the arbitrators that a misunderstanding has unfortunately arisen between Great Brit-

ain and the United States as to the nature and extent of the claims referred to the tribunal by the 1st Article of the Treaty of Washington.

This misunde standing relates to the claims for indirect losses put forward by the Government of the United States, under the several heads of—(1.) "The losses in the transfer of the American commercial marine to the British flag," (2.) "The enhanced payments of insurance," (3.) "The prolongation of the war, and the addition of a large sum to the cost of the war and the suppression of the rebellion." Which claims for indirect losses are not admitted by Her Majesty's Government to be within either the scope or the intention of the reference to arbitration.

Her Majesty's Government have been for sometime past, and still are, in correspondence with the Government of the United States upon this subject; and, as this correspondence has not been brought to a final issue, Her Majesty's Government being desirous (if possible) of proceeding with the reference as to the claims for direct losses, have thought it proper in the mean time to present to the Arbitrators their Counter-Case (which is strictly confined to the claims for direct losses), in the hope that, before the time limited by the 5th Article of the treaty, this unfortunate misunderstanding may be removed.

But Her Majesty's Government desire to intimate, and do hereby expressly and formally intimate and notify to the Arbitrators, that this Counter Case is presented without prejudice to the position assumed by Her Majesty's Government in the correspondence to which reference has been made, and under the express reservation of all Her Majesty's rights, in the event of a difference continuing to exist between the High Contracting Parties as to the scope and intention of the reference to Arbitration.

If circumstances should render it necessary for Her Majesty to cause any further communication to be addressed to the Arbitrators upon this subject, Her Majesty will direct that communication to be made at or before the time limited by the 5th Article of the treaty.

The undersigned, &c.

TENTERDEN.

Thereupon, after some further fruitless negotiations, the arbitrators, of their own motion, proceeded to decide and declare that the indirect claims made by the United States were not within the scope of the arbitration, thus removing all misunderstanding by a decision eliminating immaterial matters from the controversy. The decision was made and put on record exactly in the method which we ask you to pursue here. We say that we are entitled to have such a decision on the ground of precedent as well as of convenience; and we say further that we are entitled to have it on the ground of simple justice. No tribunal has ever been known to refuse to declare what, in its judgment, was the extent of its jurisdiction. To do so, and receive evidence applicable to the subject as to which its jurisdiction is controverted, and then to make a general decision, the result of which renders it impossible ever to ascertain whether the tribunal acted upon the assumption that it had or had not jurisdiction over the controverted part of the case, would be the extremity of injustice.

If an award were to be made under such circumstances, nobody ever would know whether it embraced the matter respecting which jurisdiction was denied or not. In illustration, I may mention the Geneva Arbitration. Suppose that it had gone forward without any declaration by the arbitrators that they excluded the indirect losses, and then suppose that a round sum had been awarded, would not Great Britain have had a right to assume that this round sum included the indirect claims to which it never meant to submit? So will it be here; unless there is placed upon record the ruling of the Commissioners as to this point, it never will be possible for us to know, or for the world to know, upon what ground you have proceeded—whether you believe that we are to pay for commercial intercourse or not. No one will know how this is unless upon our motion you decide one way or the other. For our assistance, then, in conducting the case, for convenience, and for the information of our respective governments, we ask you to make this decision, and it is entirely obvious that if no decision is made it must necessarily

be assumed that these controverted claims are by you deemed to be a just ground of award. We never can know the contrary, unless you say so; and, if you are to say so, we think that convenience and justice both require that you should say so at such an early day as to enable us to shape the conduct of our case in conformity with your decision.

Mr. THOMSON. I would like to know whether anything more is to be said on the subject by our learned friends opposite.

Mr. FOSTER. We understand that, as is the case in connection with every other motion, the party moving has the right, in this instance, to open and close the argument.

Mr. THOMSON. I make this observation simply because, in the course of the American Agent's remarks, he said that Mr. Trescot had given particular attention to the treaties, and hence I assumed that he was about to be followed by Mr. Trescot. It would be obviously unjust to the counsel acting on behalf of Her Majesty's Government if they should now be called upon to answer the argument that has been made without hearing all that is really to be said on the other side. I understand that the other side have an undoubted right to reply to anything which we may say, but if Mr. Trescot is afterwards to start a new argument, as I rather infer from Mr. Foster's remarks he will do, this might put another phase on the matter.

Mr. TRESBOT. As I understand the position taken by Mr. Foster, it is very plain, and stated with all the fullness and precision necessary. He takes the ground that the commercial relations between Great Britain and the United States stand either on ordinary international comity or upon treaty regulations. If upon the latter, then they rest upon the Treaty of 1794, the third permanent article of which did determine the commercial relations which were to exist between the United States and the British North American Colonies; because in 1815 the Commercial Convention, then adopted and extended in 1815 and 1827, renewed that article, even if it should be contended, as I think it never has been before by the British Government, that the permanent articles of the Treaty of 1794 were abrogated by the war of 1812. The negotiators of the Convention of 1815 took the third article of the Treaty of 1794 as a basis, but not being able to agree as to certain modifications, decided to omit the article and to declare that "the intercourse between the United States and His Britannic Majesty's possessions in the West Indies and on the Continent of North America shall not be affected by any of the provisions of this article, *i. e.*, the article of the Convention of 1815 in reference to the commercial relations between the United States and the possessions of His Britannic Majesty in Europe, *but each party shall remain in the complete possession of its right with respect to such intercourse,*" those rights being, as we contend, the old rights established by the Treaty of 1815. But the question has not a very important bearing upon our present contention, and has been suggested simply in reply to what we understand is to be one of the positions on the other side, viz, that if we deny that commercial privileges were granted by the Treaty of 1871, and are not, therefore, proper subjects of compensation in this award, then we have no right whatever to these commercial privileges; and I can say in reply to the very proper inquiry of my friend Mr. Thomson, that in any remarks I may make, that is the extent of the position which will be taken, but I do not expect to refer to the point at all.

Mr. THOMSON. In reference to the time at which this motion should be heard, in view of the arguments which the learned Agent of the United States has used, I shall not, on behalf of Her Majesty's Govern-

ment, call upon this Commission to say this is an improper time for that purpose. We have no objection that this application on the part of the counsel of the United States Government should be heard at length, and so they may be enabled to understand at all times, on all reasonable occasions, the exact ground upon which we stand. There is nothing unreasonable in the view which has been put forward by them in this respect. They are entitled to know whether the Commission is going to take the matter named in their notice of motion into consideration or not. We therefore have no objection that your excellency and your honors should determine this point at once, and we do not complain of the time at which the motion is made. I shall now come to the substance of the motion. The Agent of the United States has traveled out of the record, and has referred to light-houses and other matters not contained in this motion. He also alluded to the injuries which were committed on our coasts by the American fishermen, and he says that we have put them all forward in our case as subjects for compensation. I am not here now to consider the question whether we have done so or not; I at present only intend to discuss whether the matters included in this motion are matters coming within the jurisdiction of this court or not. I read the motion. It states:

The counsel and Agent of the United States ask the honorable Commissioners to rule declaring that it is not competent for this Commission to award any compensation for commercial intercourse between the two countries, and that the advantages resulting from the practice of purchasing bait, ice, supplies, &c. and from being allowed to transship cargoes in British waters, do not constitute any foundation for an award of compensation, and shall be wholly excluded from the consideration of this tribunal.

The tribunal will see that these are the words inviting discussion; and these I am here to answer, and nothing else. Satisfactory answers could be given to the other matters to which Mr. Foster has called attention, if this were the proper time to give them. As to the light-houses, for instance, it is quite obvious that these make the value of the fisheries themselves very much greater to the Americans than they would be otherwise; but I say again that I am not going to discuss that question now. If it should arise hereafter, I shall do so. We shall undoubtedly be obliged to discuss it eventually, at the end of the case; but the question now is, whether it falls within the jurisdiction of this tribunal to award to Great Britain any pecuniary compensation for the rights which the Americans have undoubtedly exercised since the Washington Treaty was negotiated, of coming into our waters and instead of taking bait with their own lines and nets, as by the terms of that treaty they have a right to do, purchasing it from our citizens; of buying ice here as well, and of getting supplies and transhipping their cargoes. It is said in the Reply of Her Majesty, page 8, I think, that these privileges are clearly incidental; that, looking at the whole scope and meaning of the treaty, it is clear that these are incidental privileges for which the American Government can afford to pay. The words of our reply, read by Mr. Foster, are these:

By the terms of Article 18 of the Treaty of Washington, United States fishermen were granted permission to land upon the said coasts, and shores, and islands, and also upon the Magdalen Islands, for the purpose of drying their nets and curing their fish. The words *for no other purpose whatever* are studiously omitted by the framers of the last-named treaty, and the privilege *in common* with the subjects of Her Britannic Majesty to take fish and to land for fishing purposes, clearly includes the liberty to purchase bait and supplies, transship cargoes, &c., for which Her Majesty's Government contend it has a right to claim compensation.

It is clear that these privileges were not enjoyed under the Convention of 1818, and it is equally evident that they are enjoyed under the Treaty of Washington.

Well, that is the argument which was put forward by Her Majesty's Government, but whether that argument commends itself to the judg-

ment of this tribunal or not is not for me to say, though to my mind it is a very strong and very forcible one. Referring to the wording of the treaty itself, and to the Convention of 1818, the first section of the latter states :

Whereas differences have arisen respecting the liberty claimed by the United States, for the inhabitants thereof, to take, dry, and cure fish on certain coasts, bays, harbors, and creeks of His Britannic Majesty's dominions in America, it is agreed between the high contracting parties, that the inhabitants of the said United States shall have forever, in common with the subjects of His Britannic Majesty, the liberty to take fish of every kind on that part of the southern coast of Newfoundland which extends from Cape Ray to the Rameau Islands, on the western and northern coast of Newfoundland, from the said Cape Ray to the Quirpon Islands, on the shores of the Magdalen Islands, and also on the coasts, bays, harbors, and creeks from Mount Joly, on the southern coast of Labrador, and to and through the straits of Belle Isle, and thence northwardly indefinitely along the coast, without prejudice, however, to any of the exclusive rights of the Hudson's Bay Company. And that the American fishermen shall also have liberty, forever, to dry and cure fish in any of the unsettled bays, harbors, and creeks of the southern part of the coast of Newfoundland hereabove described, and of the coast of Labrador; but so soon as the same, or any portion thereof, shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such portion so settled, without previous agreement for such purpose with the inhabitants, proprietors, or possessors of the ground. And the United States hereby renounce forever any liberty heretofore enjoyed or claimed by the inhabitants thereof, to take, dry, or cure fish, on or within three marine miles of any of the coasts, bays, creeks, or harbors of His Britannic Majesty's dominions in America, not included in the above-mentioned limits; provided, however, that the American fishermen shall be admitted to enter such bays or harbors for the purpose of shelter and of repairing damages therein, of purchasing wood and of obtaining water, and for no other purposes whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein, or in any other manner whatever abusing the privileges hereby reserved to them.

Now, in reference to the Washington Treaty, you will find this language used in the commencement of the 18th Article :

It is agreed by the High Contracting Parties that, in addition to the liberty secured to the United States fishermen by the Convention between Great Britain and the United States, signed at London on the 20th day of October, 1818, of taking, curing, and drying fish on certain coasts of the British North American Colonies therein defined, the inhabitants of the United States shall have, in common with the subjects of Her Britannic Majesty, the liberty, for the term of years mentioned in Article XXXIII of this treaty, to take fish of every kind, except shell fish, on the sea-coasts and shores, and in the bays, harbors, and creeks of the Provinces of Quebec, Nova Scotia, and New Brunswick, and the Colony of Prince Edward Island, and of the several islands thereunto adjacent, without being restricted to any distance from the shore, with permission to land upon the said coasts, and shores, and islands, and also upon the Magdalen Islands, for the purpose of drying their nets and curing their fish; provided that in so doing they do not interfere with the rights of private property, or with British fishermen, in the peaceable use of any part of the said coasts in their occupancy for the said purpose. It is understood that the above-mentioned liberty applies solely to the sea-fishery, and that the salmon and shad fisheries, and all other fisheries in the rivers and mouths of rivers are hereby reserved exclusively for British fishermen.

I call attention to the fact that, in this very Treaty of Washington, the framers have made as the basis of it, not only the Convention of 1818, but the 1st section of it, and in that section is contained the strong and positive declaration that the Americans shall have the right (and only that right) of coming into British waters for the purposes of obtaining shelter, repairing damages, and of securing wood and water, and *for no other purpose whatever*. I will now read Article 18 of the Washington Treaty, and the argument I wish to found upon it is this: That the High Contracting Parties, or rather the High Commissioners, had before them, when they framed that treaty, the Convention of 1818, the first article of which contains these words :

That the American fishermen shall be admitted to enter such bays or harbors for the purpose of shelter and of repairing damages therein, of purchasing wood, and of obtaining water, and *for no other purpose whatever*.

One would suppose that under ordinary circumstances it would have been sufficient to have stopped with the statement that they should be admitted "for the purpose of shelter, &c., and of obtaining water," but the framers of the Convention of 1818 were particular to add, "and for no other purpose whatever."

They not only so restricted the Americans by affirmative words, but also by negative words. The High Contracting Parties having this before them, gave the Americans the liberty of coming upon our shores to fish on equal terms with our fishermen, and to take bait, &c. To my mind, the High Commissioners considered that the framers of the Convention of 1818 deemed it necessary to insert the words, "and for no other purpose whatever," to make it absolutely certain that the Americans could only come in for shelter, repairs, wood, and water, and should enjoy no rights as incidental to that privilege, and that they purposely omitted those words in the Treaty of Washington. It may, therefore, be well supposed that if the Americans were to be restricted to the very letter of the treaty, the same negative words would have been used, and undoubtedly had those words been used in the treaty, there would be an end of the argument. If that had been the intention of the High Commissioners, they would have gone on in this treaty to state in Article 18:

It is agreed by the High Contracting Parties that, in addition to the liberty secured to the United States fishermen by the Convention between Great Britain and the United States, signed at London on the 20th day of October, 1818, of taking, curing, and drying fish on certain coasts of the British North American Colonies, therein defined, the inhabitants of the United States shall have, in common with the subjects of Her Britannic Majesty, the liberty, for the term of years mentioned in Article XXXIII of this treaty, to take fish of every kind, except shell-fish, on the sea coasts and shores, and in the bays, harbors, and creeks of the Provinces of Quebec, Nova Scotia, and New Brunswick, and the Colony of Prince Edward Island, and of the several islands thereunto adjacent, without being restricted to any distance from the shore, with permission to land upon the said coasts, and shores, and islands, and also upon the Magdalen Islands, for the purpose of drying their nets and curing their fish, and *for no other purpose whatever.*

But these words were not used.

Now these are the words which the learned Agent of the United States, and the learned counsel who are associated with him, seek, in my judgment, to interpolate into this treaty. The framers of the Convention of 1818 were very cautious as to its wording; the framers of the Treaty of Washington had that convention before them, and it must, therefore, I think, be fairly assumed that if it had been the intention of either of the High Contracting Parties, in this instance, that the Americans should simply have the bare rights named in the treaty and nothing else, they would have followed the example set before them by the Convention of 1818 and used these strong negative words, "and for no other purpose whatever." I say that this argument is a fair and just one; of course its weight is to be determined by this tribunal. I am by no means putting it forward as a conclusive argument, but still the fact that they did not do so is of great weight in my mind, though to what extent its weight will effect the decision of this tribunal it is not for me to say, but it does appear to me to be a very strong argument indeed. Had it been intended to restrict the United States fishermen, and, to use the language of Mr. Foster, confine them merely to what was mentioned in the bond, the High Commissioners would have added, "and for no other purpose whatever"; and therefore their leaving that language out is open to the construction that the Americans were entitled to all the incidental advantages which that treaty would necessarily be understood to confer.

Is it not a rather extraordinary argument on the part of the United

States that this privilege of theirs related only to their right of coming in and fishing on equal terms with our citizens, and to landing and to drying their nets and curing their fish, and that the moment they had dried their nets and cured their fish they were forthwith to take to their boats and go back to their vessels, and that by landing for any other purpose whatever they are clearly liable for infraction of the provisions of this treaty? It is certainly a curious view which Mr. Foster presents with regard to their mode of bartering along the coast when he intimates that they land merely to exchange a gallon or two of kerosene oil or a barrel of flour for fish, and in effect declares—for this is the result of his argument—that for so doing the Americans are liable to punishment.

Mr. FOSTER. I said that they could be excluded by statute.

Mr. THOMSON. I will show you before I am through that these American fishermen can by no possibility whatever come into our waters without incurring the risk of forfeiture, if Mr. Foster's reading of this treaty be accepted as correct. This would be the result of his argument; if you confine them to the very terms of the bond, to use the language of Mr. Foster, then it is clear that if they land for the purpose of giving a barrel of flour in exchange for fish, or of purchasing fish, at that moment their vessels are liable to forfeiture. This is a strange construction to put upon the treaty, and these are the strange results which will necessarily follow if this tribunal adopt the view presented by the American Agent.

But there is another matter to be considered, and it is this: In 1854 the Reciprocity Treaty was passed, and under that treaty the Americans came in to fish on our coasts generally. They exercised the same rights as they do now, and no person then ever complained of them for buying bait under the terms of that treaty, though it did not in express terms authorize their purchase of bait or their getting supplies of any kind on our shores; still they did so. By a kind of common consensus of opinion, it was understood that they had a right to do so, and no person complained of it. And in view of the course which then was pursued, this treaty was framed. Mr. Foster has put this case: Suppose that when the Joint High Commissioners were sitting, the British representative had proposed that the value of the rights of transshipment, and of buying bait, and of having commercial intercourse with our people should be taken into consideration by this Tribunal, then, had this been the case, it would have been met by a well-bred shrug from the Earl of Ripon, and Professor Bernard. This may possibly be so; but I can say, I think it would have been very strange indeed if our Commissioners had said to the American Commissioners: Under the treaty which we propose you shall have the right to fish in our waters on equal terms with our fishermen, and have the right to land and cure your fish, and the right also to dry your nets on the land, but the moment that you take one step farther, the moment that you buy a pound of ice, and the moment that you presume to buy a single fish for the purpose of bait in our waters, and the moment you attempt to exercise any commercial privilege whatever, and above all, the moment you undertake to transship one single cargo, that moment your vessel will be forfeited, and the cargo as well. I think that if this had been stated, there would have been something more perhaps than a well-bred shrug from the American Commissioners. I think, therefore, it may fairly be contended, in view of the wording of the two treaties, that these are privileges, which it was intended that this Commission should take into consideration when they came to adjudicate respecting the value of our fisheries; and

after all, is not the value of our fisheries to these people, enhanced by the way in which they use them, and in which they generally have been using them—by coming into our harbors to purchase bait and ice? because it takes a long time to catch the bait for themselves, and they save time and money therefore—time and money being in such case equivalent terms—by buying their bait. And why is this not to all intents and purposes a privilege under this treaty? I fail to see that it is not. Why, when it is necessary to preserve bait in ice, and as has been shown by all the witnesses that the Americans cannot procure bait and ice except on our shores, should this not be considered an incidental right? It appears to me that this view must be taken. The argument put forward on behalf of the United States demanding a contrary construction is almost suicidal. Moreover I think I can establish that this latter view is not taken by the Americans on this subject. On page 467 of Mr. Sabine's report, the following language is used: "It is argued that if the liberty of landing on the shores of the Magdalen Islands"—your Excellency and your Honors will recollect that while the Americans have the right to fish around the Magdalen Islands, they have no right to land on these shores, though our evidence has shown that, as a rule, they have landed on these islands, both before and since the negotiation of this treaty, and have dragged their nets on the shore, and fished for bait in this way. Mr. Sabine states:

It is argued that, "if the liberty of landing on the shores of the Magdalen Islands had been intended to be conceded, such an important concession would have been the subject of express stipulation," &c., it may not be amiss to consider the suggestion. And I reply that if "a description of the inland extent of the shore over which" we may use nets and seines in catching the herring if necessary, it is equally necessary to define our rights of drying and curing the cod elsewhere, and as stipulated in the convention. Both are *shore* rights, and both are left without condition or limitation as to the quantity of beach and upland that may be appropriated by our fishermen. It was proclaimed in the House of Commons, more than two centuries ago, by Coke—that giant of the law—that "FREE FISHING" included "ALL ITS INCIDENTS." The thought may be useful to the Queen's advocate and Her Majesty's attorney-general when next they transmit an opinion across the Atlantic which is to affect their own reputation and the reputation of their country. The right to take fish "on the shores of the Magdalen Islands," without conditions annexed to the grant, whatever these profoundly ignorant advisers of the Crown of England may say to the contrary, includes, by its very nature and necessity, all the "incidents" of a "free fishery," and all the privileges in use by, and common among fishermen, and all the facilities and accommodations, on the land and on the sea, which conduce to the safety of the men employed in the fishery, and to an economical and advantageous prosecution of it.

Now, it may be said that this is not the opinion of a person entitled to weight, but, at all events, it had sufficient weight to induce the legislature of the United States to republish this report in a volume, which contains the sessional papers of the House of Representatives of the Forty-second Congress, second session. The legislature of the United States, therefore, thought it proper and of sufficient importance to publish it; and I believe that the report was published more than once. At all events, it is from their own state papers that I quote it. The language employed is very forcible. It is very often the case, when our friends across the border are arguing matters that nearly or closely affect them, they couch their arguments in strong and uncomplimentary language to those who differ from them; and so, of course, when Mr. Sabine writes, "that it would be well for those profoundly ignorant law-officers to govern themselves in future as to their opinions," &c., we can understand that language as being used, perhaps, in the American sense of the term, and certainly not in the offensive sense in which such words would be construed here or in England.

MR. FOSTER. It is used in the Pickwickian sense.

Mr. THOMSON. I was about to say so. I trust that it was employed in that sense. Here is a construction which the American nation can put forward as the true construction of this treaty for the purpose of obtaining the right to land on the Magdalen Islands, and the moment the shoe pinches on the other side, they want to have the strict letter of the law, and nothing else—they then do not wish to go a single step beyond that, though the moment when it becomes necessary to extend their rights, they want to obtain a liberal construction of its terms. I do not think myself that the United States can always claim to come before any tribunal and say that they have, where it suits their purpose to do so, been very liberal in their construction of treaties. In regard to this very treaty itself, your Excellency and your Honors are aware, that it certainly was an extraordinary construction on the part of the United States Government when a duty was by them placed on the tin packages in which free fish entered into the United States. I wish to show what necessarily would be the result if the United States contention in this matter were right; but before doing so, it may be proper for me to notice an argument which Mr. Foster drew from the Convention of 1815, to which he called your attention, and part of which he read. He says that inasmuch as the Convention referred to previous privileges, which the United States had abandoned as against Great Britain, and as those privileges must have been granted by the Treaty of 1794, that therefore the war of 1812 did not abrogate those privileges, and that this was a distinct admission on the part of Great Britain that the treaty mentioned was not abrogated, and that the privilege conferred by that treaty had been in no way interfered with. I altogether deny the conclusion he thus draws; but it is not now necessary for the purpose of my argument to answer that statement, further than to say that the mention of those privileges had reference to ordinary commercial relations existing between the traders of the two nations. These traders are a well-known class of persons. They are merchants and ship-owners, who send their ships to sea. These vessels have registers, clearances, manifests, &c., for the purpose of showing the nationality of their vessels, and these papers also show the voyage which the vessels have undertaken to prosecute—what they have on board and everything about them. If they are on a trading voyage, this states their object. But fishing-vessels have no such papers except registers. They come without clearances, and if I understand the question at all, they are a separate and distinct class of vessels, and as a separate and distinct class they have always been treated by both nations. The 1st section of the Convention of 1818 had reference to ordinary traders, and to them solely. Let it be admitted, for the sake of argument, that Mr. Foster is right in his construction of the effect of the language used in the Convention of 1815 to which he refers—though this I, in fact, utterly deny, but still admitting that the words to which he has directed attention in fact declared that the war of 1812 had no practical effect whatever upon the Treaty of 1794—supposing that this was so, what do we find? We find that in 1818 a distinct and separate treaty is framed, referring to this very class respecting whose rights your Excellency and your Honors are now sitting in judgment—the fishermen engaged in the prosecution of the fisheries of the United States. The Convention of 1818 was made altogether with reference to them; was it not? What does the 1st section of that Convention of 1818 say? It is this:

ART. 2. Whereas differences have arisen respecting the liberty claimed by the United States, for the inhabitants thereof, to take, dry, and cure fish, on certain coasts, bays, harbors, and creeks, of His Britannic Majesty's dominions in America, it is agreed be-

tween the High Contracting Parties that the inhabitants of the said United States shall have forever, in common with the subjects of His Britannic Majesty, the liberty to take fish of every kind on that part of the southern coast of Newfoundland which extends from Cape Ray to the Rameau Islands: on the western and northern coast of Newfoundland, from said Cape Ray to the Quipron Islands: on the shores of the Magdalen Islands, and also on the coasts, bays, harbors, and creeks from Mount Joly, on the southern coast of Labrador, to and through the Straits of Belleisle, and thence northwardly indefinitely along the coast, without, prejudice, however, to any of the exclusive rights of the Hudson's Bay Company. And that the American fishermen shall also have liberty, forever, to dry and cure fish in any of the unsettled bays, harbors, and creeks, of the southern part of the coast of Newfoundland hereabove described, and of the coast of Labrador: but so soon as the same, or any portion thereof, shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such portion so settled, without previous agreement for such purpose, with the inhabitants, proprietors, or possessors of the ground. And the United States hereby renounce forever any liberty heretofore enjoyed or claimed by the inhabitants thereof, to take, dry, or cure fish on or within three marine miles of any of the coasts, bays, creeks, or harbors of His Britannic Majesty's dominions in America, not included within the above-mentioned limits: *Provided, however*, That the American fishermen shall be permitted to enter such bays or harbors, for the purpose of shelter and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein, or in any other manner whatever abusing the privileges hereby reserved to them.

Now, I want to say, may it please your excellency and your honors, I think it most extraordinary that the learned agent of the United States, and a man of his high standing and great ability, should take this matter up and distinctly assert that what took place in 1815 had the slightest bearing on the subsequent agreement which was made with reference to the particular class mentioned—the fishermen—between these two nations. I must confess I cannot see the slightest bearing it has on the Convention of 1818. I deny that the construction urged by the agent of the United States is correct; and if it were necessary to do so, I think I would be able to convince this tribunal that the contention of Mr. Foster is entirely erroneous. Still, I put it out of consideration altogether, as being in no way connected with the matter at present at issue. What have you to do with it? We stand here by the Treaty of 1818, which was a definite treaty affecting the fishermen of the United States and the fisheries on the shores of these provinces. By the terms of that treaty the fishing-vessels of the United States and their fishermen were prohibited from coming within three miles of our shores and of all our bays for any purpose whatever, with three exceptions, that is to say, they might resort to our harbors for the purpose of shelter in case of storms, to make repairs in case of necessity, and to procure wood and water, and if they went into these places for any other purpose whatever, their vessels were liable to forfeiture; yet though this was the case, as my learned friend on the other side well knows, they incurred that liability time and again. Vessel after vessel of theirs was condemned from the making of this treaty up to the present time, and has that treaty ever been abrogated? There is no pretense for saying that this is the case. That treaty stands in as much force to-day as it did in the year 1819, the year after which it was passed, with one exception only, except in so far as it is interfered with by the Treaty of Washington. Now, let me turn your attention to what the Treaty of Washington says on this point, because so far as any privileges were renounced by the United States in the Treaty of 1818 they have conferred on the United States by the Treaty of Washington. The 18th article of the Treaty of Washington declares—

ART. XVIII. It is agreed by the High Contracting Parties that, in addition to the liberty secured to the United States fishermen by the Convention between Great Britain and the United States, signed at London on the 20th day of October, 1818, of taking,

curing, and drying fish on certain coasts of the British North American colonies therein defined, the inhabitants of the United States shall have, in common with the subjects of Her Britannic Majesty, the liberty, for the term of years mentioned in Article XXXIII of this treaty, to take fish of every kind, except shell-fish, on the sea-coasts and shores, and in the bays, harbors, and creeks of the Provinces of Quebec, Nova Scotia, and New Brunswick, and the colony of Prince Edward's Island, and of the several islands thereunto adjacent, without being restricted to any distance from the shore, with permission to land upon the said coasts and shores and islands, and also upon the Magdalen Islands, for the purpose of drying their nets and curing their fish; provided, that in so doing they do not interfere with the rights of private property, or with British fishermen in the peaceable use of any part of the said coasts in their occupancy for the same purpose. It is understood that the above-mentioned liberty applies solely to the sea-fishery, and that the salmon and shad fisheries, and all other fisheries in rivers and the mouths of rivers, are hereby reserved exclusively for British fishermen.

The only privileges which the American fishermen had in British waters are received in the Convention of 1818; and as to all other privileges, they expressly excluded themselves by their renunciation forever. Now, in this treaty, Great Britain says it is expressly agreed by the High Contracting Parties that, in addition to the privileges which the Americans enjoy under the Convention of 1818—that is, in addition to the privileges which they have of fishing on the southern coast of Labrador, and on the shores of the Magdalen Islands, and around the shores of the Magdalen Islands—

The citizens of the United States shall have, in common with the subjects of Her Britannic Majesty, the liberty, for the term of years mentioned in Article XXXIII of this treaty, to take fish of every kind, except shell-fish, on the sea coasts and shores and in the bays, harbors, and creeks of the Provinces of Quebec, Nova Scotia, and New Brunswick, and the colony of Prince Edward Island, and of the several islands thereunto adjacent, without being restricted to any distance from the shore.

Can anything be plainer than this? Whereas, before this treaty, Great Britain says to the United States, you could only fish around the Magdalen Islands, but not land on these islands; by this treaty however, all these restrictions are taken away from you; and in addition to that, the restrictions which were imposed preventing you from fishing within three miles of the shores of Nova Scotia, New Brunswick, Quebec, and Prince Edward Island, are removed, and besides the right of fishing there, you also have the right to land and dry your nets on these coasts. Is not that plain? The Convention of 1818 clearly stands untouched except in so far as it is restricted by the Treaty of 1871. Now, what follows from this, if the Agent of the United States is correct in his contention—and I presume that my learned friends opposite have weighed it carefully—this follows: these American fishermen having then, as I have shown, no right to enter our harbors by any commercial treaty, they are governed by the Convention of 1818; their rights are defined by that convention, and extended by the agreement and Treaty of 1871. This being the case, what have they a right to do if the contention of my learned friend on the other side is correct? They have a right, and that under this treaty, to fish within three miles of the shore in common with the inhabitants of these colonies, and there to take fish of every kind, shell-fish excepted, and to land for the purpose of drying their nets and curing their fish and nothing more; that is the "bond."

That is the bond, says Mr. Foster. That is all they have a right to do. If it is, then what follows? Then all other privileges save those of taking fish within three miles of the shore, landing on the coast for the purpose of drying nets and curing fish, are governed by the Convention of 1818. And if that is the case, then when they do enter for the purpose of purchasing bait, they enter for another purpose than that of obtaining wood and water, securing shelter, &c., and they become liable

to forfeiture. If they come in for the purpose of buying ice they are in the same predicament—they have not entered for the purpose of buying wood or obtaining shelter; they have come in for the purpose of buying ice, which is wholly foreign to the provisions of the Treaty of 1818. They could not under the Treaty of 1818 enter for that purpose and the position assumed by the learned Agent and counsel for the United States is that that privilege is not conferred by the Treaty of Washington. If so, they haven't got it, and every time they come in for other purposes than those mentioned in the Treaty of 1818 they are liable to forfeiture. The surprise with which I, as counsel, heard that contention will, I have no doubt, be only exceeded by that of the fishermen of the United States when they find that that is the construction placed on the treaty by the Government of the United States as represented by their Agent before this Commission. If this argument applies to buying bait and ice, a *fortiori*, it applies to the privilege that they now enjoy of landing and transshipping cargoes. Under the plain reading of the treaty, there is no doubt about it, and if it does not come within the incidental privileges, I admit that, as a lawyer, I cannot contend for one moment that the privilege of buying bait—or at all events of buying ice, whatever may be said about bait, as to which there may be a particular construction, to which I will refer presently—I admit frankly that I cannot see that the privileges of buying ice or of transshipping cargoes are conceded unless they are to be considered as necessarily incidental. If it is denied that they are conceded incidentally, then the moment a vessel lands for any of those purposes, a forfeiture is worked immediately.

There is just this distinction with reference to the taking of bait. It has been shown by numerous witnesses before this tribunal that these men come in and employ our fishermen to get bait for them, and then pay the fishermen for doing so. Now I wish to be distinctly understood upon this point. I submit, without a shadow of doubt—I don't think it will be controverted on the other side, at all events it will not be successfully controverted—that if those fishermen, having a right to come in and fish, as they undoubtedly have under the treaty, choose to hire men to catch bait for them, they are catching that bait themselves. There is a legal maxim put in old Latin, *qui facit per alium facit per se*—what a man does by an agent he does by himself. Therefore in all these instances where it has come out in evidence that they come in and get our fishermen to catch bait for them and pay them for doing so, in all such cases the act is that of the United States fishermen themselves. On the other hand, if the fishermen upon the coast keep large supplies of bait for the purpose of selling to such persons as come along, then under the construction of the treaty contended for by the learned Agent of the United States Government, whenever bait is purchased in that way, that is a purpose for which it is unlawful to enter our ports under the Treaty of 1818, and the act works a forfeiture of the vessel and cargo. That is a startling proposition.

In reference to bait there is another consideration I throw out. I do not know whether it will be dissented from or not by the learned counsel on the other side, but this treaty does give them this power, that they shall, in common with the subjects of Her Britannic Majesty, have the liberty, for the term of, &c., to take fish. May not buying fish be a *taking of fish* within the meaning of the treaty?

It does not say to *catch fish*. The words are not “to fish,” but “to take fish.” It simply uses the word “take.” The term is a wide one, and I am not by any means prepared to say that by a strict legal construction these people, finding the fish caught here, have not a right to take it from

the fishermen. I say that is possibly a fair construction of the treaty. In that case they do "take fish," and that is all. The contention on the other side, I suppose, will be to narrow that word "take" down to mean the actual taking of fish by the citizens of the United States from the water by means of nets and other appliances. If that be the construction, then it follows as a necessary consequence that in taking bait from our fishermen they infringe the Treaty of 1818. I wish to make myself distinctly understood on that point. By the Convention of 1818 the American fishermen could not enter our harbors at all except for the three purposes of obtaining shelter, to get wood and water, and to make repairs in case of necessity. Entrance for any other purpose was made illegal. Any privileges which they had under that convention remained. Any restrictions that they labored under after that convention still remained, except in so far as they have been removed by the Washington Treaty, and if the construction be true, as contended for by the learned Agent of the United States Government, then the restrictions as to landing for the purposes I have mentioned are not removed. The purchasing of bait and ice and the transshipping of cargoes are matters entirely outside of the treaty and unprovided for. Under the Treaty of 1818, vessels entering for any other purposes than the three provided for in that treaty can be taken. As was put forward in the American Answer, any law can be passed. An inhospitable law, they will say, by which the moment they do any of these acts they will become liable to forfeiture.

I do not presume that the remarks of the Agent of the United States, in which he speaks of instructions possibly coming from his government or from the Government of Great Britain, should be taken into consideration, or that they can properly be used as arguments to be addressed to this tribunal, because, as the learned Agent very properly says, the authority of this tribunal is contained in the treaty. If the treaty gives you authority you have sworn to decide this matter according to the very right of the matter, and I presume you will not be governed by any directions from either government. Nothing of that sort can be made use of as an argument, and you will determine the matter conscientiously, I have no doubt, upon the terms of the treaty itself. Now Her Majesty's Government does not object to your deciding in so many words that these things are not subjects of compensation, if that be the judgment of the court. I have advanced very feebly the views which I think ought to govern your decision upon the point, namely, that these are incidental privileges which may fairly be construed, in view of the way in which this treaty is framed, and as inseparable from the right given to the Americans under the Treaty of Washington. But I confess that I shall not be at all dissatisfied should this tribunal decide otherwise. If it be the desire of the American Government that this tribunal shall keep within the very letter, and disregard what I have argued is the spirit of the treaty, and determine just merely the value of the fisheries themselves, and of landing on the shores to dry nets, very well I have no objection and we will accept such a decision. But Her Majesty's Government wish it to be distinctly understood that that is not the view they have held or wish to be compelled to hold of this treaty. If, however, pressed as you are to determine the question in this way by the Government of the United States, and in view of the declaration you have made to determine it according to the very right of the matter, you can conscientiously arrive at the conclusion for which they ask, we shall not regret it at all.

Mr. DOUTRE. I would desire to add to what has been so well said by

my learned friend, that the interpretation which Her Majesty's Government has put upon the Washington Treaty has received the consecration of the whole time that the Reciprocity Treaty was in operation by the course of dealing between the two governments with reference to that treaty. The Reciprocity Treaty was in exactly the same terms as the Washington Treaty, and under it the Americans have been admitted to purchase bait, transship their cargoes, and do all those things mentioned in the motion. I think that this interpretation cannot be lightly set aside to adopt the construction now sought to be put upon the treaty by our learned friends on the other side. And to show that the several provinces have not been indifferent to these matters, I would refer the Commission to a petition sent to the Queen by the legislature of Newfoundland on the 23d of April, 1853, which is to be found on page 12 of the official correspondence which has been filed on our side.

TO THE QUEEN'S MOST EXCELLENT MAJESTY.

May it please Your Majesty:

We, Your Majesty's loyal subjects, the Commons of Newfoundland, in general assembly convened, beg leave to approach Your Majesty with sentiments of unswerving loyalty to Your Gracious Majesty's person and throne, to tender to Your Majesty our respectful and sincere acknowledgments for the protection afforded by the Imperial Government to the fisheries of this colony and Labrador during the last year, and to pray that Your Gracious Majesty will be pleased to continue the same during the ensuing season.

May it please Your Majesty:

The illicit traffic in bait carried on between the inhabitants of the western part of this island and the French has proved of serious injury to the fisheries generally, as the supply enables the French bankers to commence their voyage early in spring, and thereby prevent the fish from reaching our coasts. We, therefore, most earnestly beseech Your Majesty graciously to be pleased to cause an efficient war-steamer to be placed in Burin during winter, so that by being early on the coast she may avert the evil of which we so greatly complain.

Passed the House of Assembly April 23, 1853.

JOHN KENT, *Speaker*.

I think that every other province would have made the same complaint in a different shape, but I quote this to show that the provinces have never been indifferent to the matter of selling bait to the Americans by Canadian subjects.

This is about all that I wish to add to what has been said, except that I do not know if I have well understood Mr. Foster in reference to a class of argument which he has used. I repeat, I am not very certain that I have understood him well, that if the construction put by the American side upon this article were not admitted, the American Government might repudiate the award made by the Commission.

MR. FOSTER. O, no: I said that if the award included matters not submitted to the tribunal, the principles of law would render it void. I did not say what my government would do under any given circumstances, nor am I authorized to do so.

MR. DOUTRE. There is no authority to decide as to the legality of the award made by the Commissioners, there is no other right than might. However, if this argument had not been used I have nothing to add to what has been said by my learned friend. If it had been, I should have found it necessary to address some observations which are rendered needless by the fact that I have misunderstood my learned friend.

MR. WEATHERBE. Owing to our adherence, until quite recently, to the arrangement entered into to argue this morning a preliminary question, and considering the sudden determination of counsel on behalf of Her Majesty's Government to enter upon the main question, and con-

sidering also that we are to be followed by counsel of very great ability, I trust the imperfections of what few suggestions I have to offer may be excused. For my own part, I am much in favor of written argument before this tribunal whenever that is practicable. For example, it seems we quite misunderstood the learned agent and counsel for the United States, Mr. Foster. This may have occurred in other respects. Were written arguments to be submitted, and, after examination, replied to in writing, all that would be avoided. The other side will probably admit their written argument would have been different from what has fallen from their lips.

Mr. FOSTER. I hope it would be very much better.

Mr. WEATHERBE. And yet an advantage of oral discussion was very forcibly stated by Mr. Dana the other day—namely, the privilege of asking at the moment for explanation for obscure and ambiguous expressions; and hence, just now, in reply to my friend Mr. Doutré in regard to his interpretation—in which I must say I concurred—as to the declaration by the Agent of the United States of what his government would do in case of an adverse decision on the point under discussion, an explanation has followed. The words, as we took them, would certainly form an unjustifiable mode of argument.

Treaties between the United States and Great Britain have been referred to—the old treaties—and I have just examined the passages cited. But I understood the learned counsel to admit that the argument relative to these was too remote or of no consequence in relation to this discussion. (Mr. TRESCOT. That is correct.) So then I may pass over my notes on that subject.

Mr. Foster, representing the United States before this tribunal, says that a formal protest against the claim of Her Majesty's Government for these incidental advantages—the purchase of bait and supplies, transshipment and traffic—for which we are here claiming compensation under the Treaty of Washington, is to be found in the answer of the United States. He calls it a protest. I do find it in the Answer, but I find something more. I think this highly important. Of course this Answer on behalf of a great nation is carefully prepared to express the views of the United States. We all weigh well—we have never ceased to weigh well these words—and we have within the prescribed time, many weeks ago, prepared and filed our Reply. These are the words to which the Agent and counsel of the United States refer:

Suffice it now to be observed, that the claim of Great Britain to be compensated for allowing the United States fishermen to buy bait and other supplies of British subjects finds no semblance of foundation in the treaty, by which no right of traffic is conceded.

The answer does not stop there. It goes further:

The United States are not aware that the former inhospitable statutes have ever been repealed.

Neither does it stop here, but continues:

Their enforcement may be renewed at any moment.

Here are three distinct grounds taken by the United States in their formal answer to the case presented by Great Britain, and the claim for the right of bait, supplies, and transshipment, &c. First, there is no right to the enjoyment of these privileges secured by the treaty. Secondly, there are statutes unrepealed, by which it is rendered illegal to exercise these fishing privileges. Thirdly, such statutes may be enforced.

Therefore, we understand the contention of the United States to be not only that this claim for incidental advantages—the incidents follow-

ing necessarily, the right given in express terms by the treaty to take fish—not only do the United States say there is no semblance of authority for the tribunal to consider these things in awarding compensation, but that in point of fact these acts on the part of United States fishermen have been and are now illegally exercised on our shores. In dealing with that part of the United States Answer, which I have read, this is the language used in the Reply, printed and filed on behalf of Her Majesty's Government:

The advantages so explicitly set forth in the Case, of freedom to transship cargoes, outfit vessels, obtain ice, procure bait, and engage hands, &c., are not denied in the Answer. Nor is it denied that these privileges have been constantly enjoyed by American fishermen under the operation of the Treaty of Washington. Neither is the contention on the part of Her Majesty's Government that all these advantages are necessary to the successful pursuit of the inshore or outside fisheries attempted to be controverted. But it is alleged in the third section of the Answer that there are statutes in force, or which may be called into force, to prevent the enjoyment by American fishermen of these indispensable privileges.

Here in the Case prepared and filed and presented before this tribunal on behalf of Her Majesty it is alleged that these incidents are absolutely essential to the successful prosecution of the fishery, and that they are enjoyed under and by virtue of the acceptance of the Treaty of Washington. Here in the third section of the Answer presented before this Commission, to become matter of record and history, it is alleged that there are statutes now in existence or that may be called into force to preclude the enjoyment by the fishermen of the United States of these necessary incidental advantages. Substantially that is the only ground taken in the Answer, and I do not hesitate for a moment to say that, providing it is correct, it is a reasonable answer. If Great Britain may, after the award of this tribunal shall have been delivered—if the Government of Great Britain or Canada may afterwards call into force those statutes which we contend are at present suspended, and raise the question for the decision of the court of vice-admiralty here in Halifax, or elsewhere, as it has been formerly raised and settled here, and if the decision of such questions must necessarily lead to the confiscation of the vessels attempting to avail themselves of these supposed privileges, then this is certainly a matter of great concern to the United States, and a matter of great responsibility to those in whose hands her great interests are for the time committed. In this view I do not wonder that this answer is so much insisted on. In this view, if these results are imminent there is ground for careful deliberation. If these results are inevitable, this answer respecting the enforcement of statutes is a complete and full answer, and that far the cause is ended and the court is closed.

It is admitted, I suppose, that the fishermen of the United States sail from their own shores, enter these waters, and annually, monthly, daily, practically, enjoy these advantages since the Treaty of Washington. They never contended for a right to enjoy them previously. All the witnesses unite in saying that they have been shipping crews, purchasing and cutting and shipping ice, transshipping cargoes of mackerel—that they have been in the full and absolute enjoyment of every incident necessary to the successful prosecution of the fisheries. But it is now put forward and urged on the part of the government and nation of these foreign fishermen that they have enjoyed these privileges without the sanction of the treaty and in violation of the laws of the land, which could be at any moment enforced against them; that there was and is no semblance of authority to enjoy these rights under the Treaty of Washington; that they were and are exercised in the face of existing statutes and at the peril of the United States fishermen, and the risk of

loss of their vessels, property and earnings. If you will look at the treaty—the learned counsel says in effect—you will find its articles do not permit the transshipment of mackerel, or the hiring of crews, or obtaining ice and bait; that we may land and dry fish, but we cannot transship; that we can take fish out of the water and land them on deck, but we must stop there; and the treaty in no manner annuls the disabilities under which we labored, and none of the various things necessary to carry on the business of fishing is permitted; that you have statutes which you have enforced before, and which you can and will enforce again. This, then, is an important inquiry. I quite admit that much.

Is was on consideration of the importance of this question as regarded by the United States, as I understand—this is the view of counsel representing Her Majesty's Government—that it was considered quite reasonable a discussion should be entered upon, and it was decided not to resist the argument raised by the United States, whose agent and counsel claim the advantage to be obtained by reducing the compensation in this manner.

I understand the learned Agent and counsel, Mr. Foster, now to say that if an award should be made including any compensation for these advantages—I presume it is meant as well the enjoyment of them in the past as prospectively—Great Britain could not expect to receive payment for such award—that is, that they would not be paid. There is no kind of argument in this, and for my part I am at a loss to understand why it should be offered.

If Great Britain were obliged to admit that an award contained anything by which it appeared on its face to be *ultra vires*, the United States could not be called on for payment. But I submit to the learned Agent whether he would or ought to declare in the name of the great nation he represents that if an award were made, including compensation for the privileges already enjoyed, even although under misapprehension, the United States would repudiate that. They would hardly, I humbly submit, in the face of the world, repudiate payment of such a sum as might be awarded for those privileges of the past because the danger of confiscation had passed away. And we are safe in believing that if the United States were assured in any way that no proceedings would ever be taken, but the privileges in question could be secured throughout the continuance of the treaty to the fishermen of the United States, that nation would promptly pay any sum that might be awarded. Moreover, if this tribunal had the power; if authority had been delegated and were to be found in the treaty to set questions of this kind at rest, and in making their award of compensation if the Commissioners could secure these privileges—if not already secure—I think then, also, no objection would be taken to their being considered by the tribunal. But it is because it is contended that the enjoyment of these necessary incidents is insecure; because the power of the tribunal is limited; because the matter will, it is said, be left in a state of uncertainty hereafter; because questions may arise over which the government may have little control; because the international relations of the future are unforeseen and cannot be anticipated, that the claim to compensation is resisted. This seems to me to be the condition of the question, and this I gather and have observed in the Answer, from the first, is the manner in which the subject has been regarded by the Agent representing the United States. And so regarding it, an anxiety to prevent compensation incommensurate with the privileges understood to be settled and secure beyond all question seems perfectly reasonable.

But I think there are objections to attacking the claim set up here on

behalf of Her Majesty's Government in detail. A reason stated by the learned Agent of the United States for asking for the decision of this question now is that the matter should become a record of the Commission: and if the Commissioners come to the conclusion that the right to transship and obtain ice and bait and men and supplies for the fishery are necessary incidents to the right to "take fish," and arise therefore by necessary implication from the very terms of the treaty, and that they can be properly considered in making up the award, it should be known and read hereafter. And I can understand if an award were to be paid out of the United States Treasury, and in that sum was included an amount for these already specified rights, and if any doubts existed as to whether they were secured to the fishermen, those doubts should be set at rest upon such payment. It will, however, hardly be contended that this tribunal should be asked to give the grounds. It would be utterly impossible to give such grounds on each branch of the case. Take the argument of the counsel in relation to light-houses. The representative of the United States, it appears, now thinks that the evidence in regard to light-houses was irrelevant—that is to say, if we had no light-houses at all, our fisheries would be just as valuable as they are now, and that if we had ten times as many as we have, no compensation should be allowed in consequence of the efficiency of that service. I don't know how it may strike others, but it seems to me just as reasonable—with the exception already mentioned, about which I cannot conceive any cause of anxiety—that a motion should be made to obtain a decision in advance, for the information of the United States, as to whether that nation was, in paying for the use of Canadian fisheries, paying in any indirect way, and to what extent, for the support of the lights to guide the United States in common with British fishermen through the ocean storms. It is a matter entirely for the honorable Commissioners whether they are content to give their award piecemeal—whether they are to state prematurely the grounds—one ground to-day, another to-morrow—upon which their award is to be made.

It seems to me unfortunate that this question should not have been raised earlier. One thing will be admitted: If this question had been submitted at the outset—if this tribunal had undertaken to hear argument, and if the decision had been adverse to us, a very large amount of time would have been saved in the mode of submitting the testimony. We should have had this advantage, that we might have fortified our case on matters where the quantity of evidence is small. The learned counsel on the other side have listened to a large mass of testimony which they now say is irrelevant. Suppose it should be so decided, the United States is in this position—a large portion of time allotted to them will be saved. A great deal of time may be economised which otherwise would have been occupied in meeting claims supported in our case. Having succeeded in a matter of strict law, after our time has been occupied in submitting a very large mass of evidence on questions now sought to be excluded, the United States may now concentrate their testimony upon points which are held to be before the Commission, and at the close it will be contended that their evidence on these points greatly preponderates.

Mr. FOSTER. We will give you more time.

Mr. WEATHERBE. Well, we have pretty well arranged our programme, and I think it is highly undesirable that the time should be lengthened. I don't wish it to be inferred at all that it is intimated in the slightest degree that there was any such motive governing the selection of the time to make this motion.

The Answer of the United States, at pages 8 and 9, 14 and 15, 18 and 19, claims on the part of the United States consideration in estimating the amount to be awarded for Canada of the advantages arising to Canadians on the coast from the admission of United States fishermen into our waters. In effect the Commission is asked in this document first to estimate the value of the privileges accorded to the United States by the terms of the Treaty of Washington in giving up to them the fisheries, and then, although there is nothing whatever in the treaty to justify it, they are required to reduce that sum by deducting therefrom the value to a certain class residing on our shores of the right to trade with United States fishermen, including the supply of this very bait in question. The Commissioners will find on the pages mentioned very clear language to show how reasonably we can claim for the privileges now sought to be excluded.

MR. FOSTER. I don't believe you remember just the view we take of that. We say:

The benefits thus far alluded to are only indirectly and remotely within the scope and cognizance of this Commission. They are brought to its attention chiefly to refute the claim that it is an advantage to the United States to be able to enter the harbors of the provinces and traffic with the inhabitants.

I say it lies out of the case on both sides, and that is what our motion says.

MR. WEATHERBE. That is an admission that incidental privileges are within the scope and cognizance of the Commission. But there is other language which has been assigned to other counsel to cite. There are ample quotations from the arguments of Canadian statesmen, advocating remote and incidental privileges in Parliament, as arguments in favor of the adoption of the treaty. If the Agent and learned counsel for the United States succeed in this motion they do more than exclude from the consideration of the case compensation for the right of procuring bait and ice by purchase, and the other incidents to a successful prosecution of the fisheries. And as the Answer stands, evidence may be offered on other points, unless other motions follow the present, for excluding matter from the consideration of the Commission. I think it can be shown that if this matter is not within the jurisdiction of the Commission, and had not been so considered when the Answer was drawn up, a great modification of that Answer would have been made.

MR. FOSTER. It is quite capable of being very much improved if I had more time.

MR. WEATHERBE. I am, however, only turning the attention of the tribunal to the deliberate and solemn admissions and declarations of the Answer, which bind now and hereafter. Whatever may be the argument of the United States for the present moment, these must remain, and they point to the true intention to be gathered from the language of the Treaty of Washington, as understood by both of the great parties to that compact.

The simple question we are now discussing is this: whether certain things are to be taken into consideration as incidental to the mere act of taking fish out of the water. What I understand the argument of the United States to be now is, that by the Treaty of Washington the American fishermen have the right of taking fish out of British waters, and landing to dry their nets and cure their fish, and nothing else. The right to land to dry their nets and cure their fish they admit are subjects for compensation. But what does taking fish mean? It means taking them out of the water and landing them on the deck and nothing more, it is contended. We contend that by a fair and reasonable cou-

struction of the words, the United States have obtained the privilege of *carrying on the fishery*. Can it be doubted that this was the intention when the words were adopted. Are we asking for any strained construction by the tribunal? I think not.

By the Convention of 1818 the United States renounce, forever thereafter, the liberty to United States fishermen of fishing in certain British waters, or ever entering these waters, except for shelter and for wood and water. "*For no other purpose whatever*" is the sweeping language of the treaty. I presume we are to have very little difference of opinion as to the intention of the clause containing these words. That clause of the Convention of 1818 was fully considered by the Joint High Commission who framed the Treaty of Washington. What do those Commissioners say? That language has been cited. In addition to the liberty secured by that Convention, the privilege is granted of taking fish. The Treaty of Washington permits the liberty of taking fish and of landing to dry nets and cure fish. This tribunal is invited to decide that it is not competent for them to award anything in relation to the incidental and necessary requirements to carry on the fisheries.

Is it contended there there was an oversight in framing the Treaty of Washington? Is there an absence of words necessary to secure the full enjoyment of our fisheries to United States fishermen? Was that absence intentional? The learned counsel for the United States have not stated their views upon this point. Can it be possible that those who represented the United States in framing the Treaty of Washington intended the result which would follow the success of the present motion. Can it be possible both parties intended that result? If this is an oversight, who are to suffer? The compensation is to be reduced, we are told. But if the United States Treasury is to be saved, are the United States fishermen to suffer? Or is the award to be reduced for the want of privileges and the fishermen to continue illegally to enjoy all the privileges? This matter has not been fully explained. I must admit, if there has been an oversight here—if so great an error has occurred—the tribunal is powerless to correct the error or to grant full compensation.

But the learned Agent and counsel who support the motion did not state fully to the Commission—did not give to the Commission a full explanation this morning. The answer states the matter more fully than the application for the motion. The Commissioners are entitled to know fully and distinctly what view is taken by the United States. Nothing was said as to the statutes to be enforced against United States fisherman in case the motion should be successful. In that event it would be too late to deny the right to enforce the statute. This would be unfortunate for American fishermen, as it formerly was. Is the success of the motion to open old sores and awaken the very troubles the treaty was made to set at rest? There is no escape, it appears to me.

I submit that our construction is the reasonable, fair, and legitimate one. The words of the treaty are sufficient to secure all the privileges and preclude the enforcement of statutes. The words are sufficient to justify the awarding of full compensation. Our argument is that the right to "take fish" carries with it the right to prepare to fish, and the words are sufficient to secure to American fishermen those rights of which they were deprived until secured by treaty. We submit the matter with full confidence to this honorable Commission, regretting that any intimation should have been offered on the other side as to the improbability of payment of any award, unless the judgment of Commissioners should be favorable. I think I am obliged to admit on our side that we have no alternative; that for us, on this question of reducing

the amount of compensation, the decision, even if adverse, must prevail; and I beg to say I trust whatever it may be it will be accepted in the proper spirit.

Mr. WHITEWAY. I was rather taken by surprise when I learned but just now that the main question in this proposition was this day to be discussed, and not the preliminary question as to whether the main question should be argued at the present time, or as part of the final argument. I have now only a few observations to make in addition to those that have been so strongly put by the learned counsel who have preceded me. It seems to me that the position taken by the learned counsel on the opposite side to-day differs materially, and in fact is diametrically opposed to that taken by them in their answer. In their answer they not only allege on the part of the United States that they have a right to those incidental advantages which may accrue from the concession of a right to fish; but they go further, and they allege that they have a right to claim for the incidental benefits which may flow to the subjects of Her Britannic Majesty from traffic with American fishermen, and they allege this as a specific ground for the reduction of the amount claimed on behalf of Great Britain. Now, at page 13, part iv, of the answer, they say:

It is next proposed to consider the advantages derived by British subjects from the provisions of the Treaty of Washington.

In the first place, the admission of American fishermen into British waters is no detriment, but a positive advantage, to colonial fishermen; they catch more fish, make more money, and are improved in all their material circumstances by the presence of foreign fishermen. The large quantities of the best bait thrown over from American vessels attract myriads of fish, so that Canadians prefer to fish side by side with them; and when doing so make a larger catch than they otherwise could. The returns of the product of the British fisheries conclusively show that the presence of foreign fishermen cannot possibly have done them any injury.

Secondly. *The incidental benefits arising from traffic with American fishermen are of vital importance to the inhabitants of the British maritime provinces.*

The incidental benefits arising from traffic, therefore, are, according to the contention of our learned friends, to be taken into consideration, and to have weight with the Commissioners in reducing those damages which they may award to the British Government. Now, all that has been contended for on the part of Great Britain up to the present time is that the value of the incidental advantages which necessarily arise from the concession of the right to take fish within the three-mile limit, and to land for the purpose or curing, should be taken into consideration by the Commission.

On page 9 of the answer they say:

It is further important to bear in mind that the fishery claims of the Treaty of Washington have already been in formal operation during four years, one-third of the whole period of their continuance, while practically both fishing and commercial intercourse have been carried on *in conformity with the treaty* ever since it was signed, May 8, 1871.

Here they say that practically both fishing and commercial intercourse have been carried on in conformity with the treaty ever since 1871. Now, then, if you will turn to the same answer, page 13, they say:

The United States call upon the British Agent to produce, and upon the Commissioners to require at his hands, tangible evidence of the *actual practical value of the privilege of fishing, by Americans, in British territorial waters, as it has existed under the treaty for four years past, as it exists to-day, and as, judging of the future by the past, it may reasonably be expected to continue during the ensuing eight years embraced in the treaty.*

We have met their views, and given evidence of the actual practical value of the privilege of fishing and its incidents of commercial intercourse as actually carried on in conformity with the treaty.

Now, your excellency and your honors, it appears to me very unfor-

fortunate as regards our present position that this Commission did not sit immediately after the treaty was entered into. If it had sat—if the construction put upon the treaty was to the effect that the Commission had no jurisdiction to take into consideration the incidental advantages of which evidence has been given, then, as has been put by my learned friend, Mr. Thomson, no traffic would have taken place from American fishing-vessels coming into our harbors for the purpose of buying bait, for they would have been liable to be confiscated forthwith. But this treaty having existed four years, the fishermen of the United States and of Great Britain have solved practically the question of the construction of the treaty themselves. The fishermen of the United States have found it more to their convenience and speedy baiting to employ British fishermen to take bait for them, and, in some instances, to buy it from them, believing that the right of traffic was conceded by this treaty, and thence the traffic has arisen. No such traffic would have arisen had this question been determined at the outset in accordance with the views contended for by the counsel for the United States; but because that traffic has arisen, and the question has been solved by the people themselves, therefore they now say we are precluded from recovering any compensation for it. It has been shown here by clear, indisputable evidence that the Bank fisheries off the coasts of the Dominion and Newfoundland could not be carried on to advantage by American fishermen without obtaining the bait upon our coast, which they have done. It is admitted that this is a subject for consideration, and that this is a question they have to pay for; but now, forsooth, because this Commission has not sat, and four years have elapsed, and the fishermen of the two countries have practically solved the question for themselves, we are to be precluded from obtaining compensation for the advantages that would otherwise have to be paid for.

Again, in the Answer of the United States, at page 18, it is stated: "The benefits alluded to (that is, the incidental advantages) are only indirectly and remotely within the scope and cognizance of this Commission." Here my learned friends show that they were clearly of the opinion at the time they penned this answer that these were matters that were within the scope of the Commission, and within their jurisdiction. And without objection on their part, we have throughout the whole conduct of our case adduced evidence to support the position we now contend for.

MR. TRESCOT. What I have to say I shall say very briefly, for my purpose is rather to express my assent to what has been said than to add anything to what I consider the very complete argument of my colleague, Mr. Foster.

If I understand the British counsel correctly, they admit that the construction for which we contend is a fair construction. They seem to think that a broader and more liberal interpretation would be more in conformity with what they consider to be the spirit of this discussion, but all of them appear to admit that if we choose to stand on that language we have the right to do it, and they do not object that it should be enforced. They seem to think, however, that certain consequences would follow, of which they have apprehensions for us. That is our matter. The consequences that flow from the interpretation will be confined to us, and are matters we must look to. At present the only question is, whether we have the right to say to your honors that you are limited in your award to a certain and specific series of items. I think, honestly, we have drifted very far from the common-sense view of this case. As to the technical argument, if we are to go into it, it might be in-

sisted, first, that, under the Treaty of 1818, if a fisherman went into a colonial port and bought a load of coal for his cabin stove he violated the treaty, because it only gave him the right to go in and buy wood; or when a fisherman bought ice, he was only buying water in another shape, and therefore that, when he had a right to buy water, he had the right to buy ice. I do not, however, suppose that this is the kind of arguments your honors propose to consider. It appears to me that if we look at the history of this negotiation, we see with perfect distinctness what the Commission is intended to do. When the High Commission met, and the question of the fisheries came up, what was the condition of the facts? We were annoyed and worried to death by our fishermen not being allowed to go within three miles of the Canadian shore and by their being watched by cutters. The idea of not being allowed to buy bait, fish, and ice, which we had done ever since the fisheries existed, never crossed our minds. We knew what had been the established custom for over half a century, from the earliest existence of the fisheries. We read your advertisements offering all these things for sale as an inducement to come into your ports. We had the declaration of Her Majesty's Colonial Secretary, that whatever might be the technical right, he would not consent to colonial legislation which deprived us and you of this natural and profitable exchange, and we knew that in the extreme application of your laws, you had not attempted to confiscate or punish United States fishermen for such purchases. It never occurred to us that this was a question in discussion. What we wanted to do was to arrange the question as to the in-shore fisheries. That was the only question we were considering, and so far from raising any question about it, what is the instruction of the British Government to their negotiators? It was as follows:

The two chief questions are: As to whether the expression "three marine miles of any of the coasts, bays, creeks, or harbors of Her Britannic Majesty's dominions" should be taken to mean a limit of three miles from the coast-line or a limit of three miles from a line drawn from headland to headland; and whether the proviso that "the American fishermen shall be admitted to enter such bays or harbors for the purpose of shelter, and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose whatever," is intended to exclude American vessels from coming inshore to traffic, transship fish, purchase stores, hire seamen, &c.

Her Majesty's Government would be glad to learn that you were able to arrive at a conclusive understanding with the Commissioners of the United States upon the disputed interpretation of the Convention of 1818; but they fear that you will find it expedient that a settlement should be arrived at by some other means, in which case they will be prepared for the whole question of the relations between the United States and the British possessions in North America, as regards the fisheries, being referred for consideration and inquiry to an International Commission, on which two Commissioners, to be hereafter appointed, in consultation with the Government of the Dominion, should be the British representatives.

Now, what was that but an instruction not to trouble themselves with the very questions we are arguing here to-day, but to go and settle the question on some basis which would not involve any such discussion. And what did we do? We said: "The question is between two inshore fisheries. We think our inshore fishery is worth something; you think your inshore fishery is worth something. We give you leave to fish in ours, and we admit fish and fish-oil free of duty, and make the matter pretty much on equality. If that is not sufficient, take three honest-minded gentlemen and convince them that your fisheries are worth a great deal more than ours, and we will pay the difference;" and so we will, without any hesitation, if such shall be the award upon a full hearing of all that you have to say and all that we have to say. That is the whole question we have to decide. Take the fishery question as it

stands. If you will demonstrate and prove that when we go into the Gulf of St. Lawrence to fish, the privilege is worth a great deal more to us to be allowed to follow a school of mackerel inshore and catch them than is the privilege accorded to you to come into our inshore fisheries; if, after comparing our fisheries with yours, this tribunal entertains the honest opinion that an amount should be paid by the United States, the award will be paid, and no more words said about it. What is the use of importing into this subject difficulties and contentions of words which do not mean anything after all. The question is, whether the Canadian inshore fisheries are worth more to us than our inshore fisheries are to the Canadians, with the free import of fresh fish, and if, after the examination of witnesses, this tribunal holds that our inshore fisheries are worth a great deal more than the inshore fisheries of the Dominion, then we will not pay anything. But the question submitted to this tribunal is not one that requires a great deal of discussion about treaties or a very close examination of words. If we are to go into that examination, one of the first things to determine is, what sort of a treaty are we dealing with? Because if it is a commercial treaty, an exchange of commercial rights, it is one of the principles of diplomatic interpretation that cannot be contradicted, that runs through every modern reciprocity treaty, that commercial equivalents are absolute equivalents, and do not admit of money valuation by an additional money compensation. For instance, suppose England should make a treaty with France, and England should say: "We will admit your wines free of duty if you will admit certain classes of manufactures free of duty." The treaty then goes into operation. Suppose for some reason or other there were no French light wines drunk in England for ten years, and the French took a large quantity of English manufactured goods, at the end of ten years it might turn out that England had made several millions of dollars by that treaty, while France had made nothing. But you cannot make any calculation as to compensation; the whole point is that it is reciprocity—the right exchange. Just so is it in regard to the question of fisheries and their values. Suppose from the right to import fish into the United States the Canadians make \$500,000 a year, and from our right to import fish into the Dominion we do not make \$500, what has that to do with this question? The reciprocity, the right of exchange, is the principle. And this is why it is that all reciprocity treaties are temporary treaties; because the object of such treaties is regarding the general principle of free trade as beneficial to all people, to open the results of the industries of nations to each other.

The men who made the treaty may have miscalculated the industries affected by it. It may occur that on account of a want of adaptation on the part of the people or ignorance of the markets, the Reciprocity Treaty does not turn out advantageous, and therefore such a treaty is only made for a short term of years. But if it is a reciprocity treaty giving extended commercial facilities, you have to put every one as an equivalent against another. If you put the Washington Treaty on that footing, then our right to use your inshore fisheries is balanced by your right to use our inshore fisheries, and the advantages are equal. That is the only way in which you can deal with the question if you view the treaty as one of reciprocity. But if you consider the treaty as an exchange to a certain extent of properties, then I understand that you can apply another principle. For example, if I were to exchange with some one a farm in Prince Edward Island for a house in Halifax, and agreed to submit to a board of arbitration the question of the difference in value, that board could meet and ascertain the market value of the land and

house respectively and decide the question. But according to the theory of the British counsel, whenever we got before the board of arbitration Mr. Thomson would say: "Now, this house is valuable as a house, and it is also valuable as a base of operations, for if you did not have the house and there was bad weather you would have to stay out in it; consequently that point has to be taken into consideration." The reply would be, "When I bought the house I bought it for these things." So when we come to calculate the value of the fisheries, we expect that all these incidental advantages go along with the calculation.

Mr. THOMSON. That is what we are contending.

Mr. TRECOT. I beg your pardon; that is just what you do not do. You just make an elaborate calculation of the value of your fisheries as fisheries, then you add every conceivable incidental or consequential possible advantage, whether of the fisheries or our enterprise in the use of them, and add that estimate to the value. You contend that we shall pay for the house, and then pay you additionally for every use to which it is possible to put the house.

Mr. THOMSON. Do you admit that the value of the fisheries is enhanced by those advantages?

Mr. TRECOT. I do not. I do not believe that your alleged advantages are advantages at all. We can supply their places from our own resources as well and as cheaply. Now, with regard to the treaty itself there are only two points which I propose to submit to the Commission. I contend in the first place that if the interpretation for which the British counsel contend is true, viz, that by the Treaty of 1818 we were excluded from certain rights, and by the Treaty of 1871 we were admitted to them, then we must find out from what we were excluded by the Treaty of 1818 and to what we were admitted by the Treaty of 1871. I contend that the language of the Treaty of 1818 is explicit. (Quotes from convention).

Now, I hold that that limitation, that prohibitive permission to go into the harbors, was confined entirely to fishermen engaged in the inshore fishery. That treaty had no reference to any other fishery whatever. It was a treaty confined to inshore fishermen and inshore fisheries, and we agreed that we should be allowed to fish inshore at certain places, and if we would renounce the fishery within three miles at certain places we should enter the ports within those three-mile fisheries which we agreed to renounce, for the purpose of getting wood, water, &c. The limitation and permission go together, and are confined simply to those engaged in the three-mile fishery. I contend that to day, under that treaty, the bankers are not referred to, and they have the right to enter any port of Newfoundland and buy bait and ice and transship their cargoes without reference to that treaty. I insist that it is a treaty referring to a special class of people; that those people are not included who are excluded from the three-mile limit, and if they are not so included they have the right to go to any port and purchase the articles they require. In other words, while the British Government might say that none of the inshore fishermen should enter the harbors except for wood and water, yet the bankers from Newfoundland had a perfect right to go into port for any reason whatever, unless some commercial regulation between the United States and Great Britain forbade them. With regard to the construction that is to be placed upon the articles of the Treaty of 1871, Mr. Thomson seems very much surprised at the construction we have put upon it. Here is the arrangement. (Quotes from convention of 1818 and Treaty of 1871.)

Does that take away the prohibition? Surely if it had been intended to remove that prohibition it would have been stated. In addition to

your right to fish on certain coasts and enter certain harbors only for wood and water, that treaty says you shall have the right "to take fish of every kind, except shell fish, on the sea-coasts and shores and in the bays, harbors, and creeks of the Provinces of Quebec, Nova Scotia, and New Brunswick, and the colony of Prince Edward Island and of the several islands thereto adjacent, without being restricted to any distance from the shore, with permission to land upon the said coasts and shores and islands, and also upon the Magdalen Islands, for the purpose of drying their nets and curing their fish." "Drying their nets and curing their fish." That is all; that is the whole additional treaty privilege, and I can see no power of construction in this Commission by which it can add to treaty stipulation the foreign words "and buy ice, bait, supplies, and transship." And yet the British counsel admit that without these words our interpretation is indisputable. We had a certain right and certain limitations of that right by the Treaty of 1818, and the Treaty of 1871 says in addition we give you the further right to take, dry, and cure fish and nothing else. The reason is very obvious. It is very evident that when the treaty was drawn, for every advantage outside of that clause we were to be called on, according to the theory of the British counsel, to pay compensation. We never had been called on to pay for the privilege of buying bait and ice, and we had received no notice from the Colonial Government of any intention to make such claim, which was contrary to the whole policy of Great Britain and would not be sustained. Why should we have to pay for that privilege? We did not insert it in the treaty because we did not intend to pay for it; that is the reason it is not there.

I leave any further reply to the learned counsel who will follow me.

I am anxious as to your decision. I have not desired to conceal and I have not concealed the fact that the people and Government of the United States regard this claim of \$15,000,000 as too extravagant for serious consideration. I know at the same time that they sincerely wish for a final settlement of this irritating controversy. And therefore I earnestly hope that you will be able to reach a decision which will limit within reasonable proportions a claim which, as it stands, it is simply idle to discuss.

You start from a point we can never reach. A day or two ago, during the session, I happened to go into the Commission consulting-room and found on the table a copy of Isaak Walton's Complete Angler, a very fit book for the literary recreation of such an occasion. On the page which was turned down I found a reference to some South Sea Islanders, I believe, who had such a gigantic inshore fishery that "they made lumber of the fish-bones." I am afraid that the British counsel have been consulting this book as an authority.

Mr. DANA. May it please your excellency and your honors, the question now before the tribunal is, whether you have jurisdiction to ascertain and declare compensation because of American fishermen buying bait, ice, and supplies, and transshipping cargoes within British territory. Your jurisdiction, as has been well said, finds its charter in the Treaty of Washington. Without rereading the words which have been read, *usque ad nauseam*, I think I give truly the substance and meaning of them when I say that there having been mutual cessions relating to fisheries, and one side claiming that it has ceded more than it has received in value, it is agreed that your honors shall determine strictly this, whether Great Britain has ceded more valuable rights to the United States than the United States has ceded to Great Britain. Your honors are not to determine or to inquire what rights Great Britain has

permitted the United States to exercise independently of the treaty, however nearly they may be connected with the fisheries, and however important they may be to fishermen. It must be something which Great Britain has ceded by the Treaty of 1871, or you have nothing to do with it; whatever was done, at however great a loss to Great Britain, and however great a benefit to the United States, you have but to compare the two matters which have been ceded by each side in the Treaty of 1871, and find whether one is more valuable than another, and if so, how much more valuable. Therefore we are brought to this question: Does the Treaty of 1871 give to the United States the right to buy bait, ice, provisions, supplies for vessels, and to transship cargoes within British dominions? If the Treaty of Washington does give that to us, then it is an element for you to consider in making up your pecuniary calculation. If the Treaty of Washington does not give that to us, then I congratulate this high tribunal that it may put these matters entirely out of mind, and save many days of examination and cross-examination, and some perplexity of mind. Because your excellency and your honors will remember that if you are to fix a value upon them, that is, the value to the United States of the right to buy bait, ice, and provisions, and to transship cargoes, that will not be all you will have to do. You will have also to ascertain the value to the provinces of the corresponding right which they would have in the United States; and you will have still further difficulty, I think, to ascertain what benefit this American commerce is to British subjects, and deduct that.

The task before you would be a very undesirable one. Having ascertained the pecuniary value of these rights to the United States, your honors will have to ascertain the pecuniary value that British subjects derive from this common trade and barter, because we ought not to pay for the privilege of putting money into the hands of British subjects. We ought not to pay for the privilege of enfranchising a whole class of fishermen who have been held in practical serfdom by the merchants. It is an exceedingly difficult subject of computation, and one which, I think, you are persuaded already was never intended by the Governments of the United States and Great Britain to be submitted to your honors for decision. I say, then, the Treaty of Washington has not given us these rights. To what does the Treaty of Washington relate? Without the necessity of reading it to you, I can say that the language is in substance: Whereas, you have certain advantages given to you relating to the inshore fisheries, under the Treaty of 1818, in regard to catching fish, drying your nets, and curing your fish on certain shores, we will extend territorially these same privileges. And I have the honor to contend that the Treaty of Washington is simply *a territorial extension of certain specific rights*—the right to catch fish, dry nets, dry fish, and cure fish. The subject-matter of that part of the Treaty of Washington is the catching fish inshore, within the three-mile limit. Before the Treaty of Washington, this right of catching fish within three miles of shore, and of landing to dry and cure fish and dry nets, was confined to certain regions. In other places we could not fish or land within the three-mile limit. The Treaty of Washington extends territorially these rights over all British America, and there the Treaty of Washington ends, so far as the fisheries are concerned. There is not one word in it of the creation of new rights. It is a territorial extension of long-known specified rights.

It does not say that whereas by the Treaty of 1818 you renounced the right to fish within the three-mile limit, provided, however, that you can go in to buy wood and get water, we add to those rights the right to buy

ice, bait, and other supplies. If there had been the least intention by either party to extend the rights to new subjects it would certainly have been stated in the treaty. If, when the representatives of Great Britain and the United States had come together, the Joint High Commission had understood that we should not enter British American ports except those we were allowed to enter under the Treaty of 1818 for any purpose except for shelter, and to buy wood and water, and the British nation had proposed to add to these subjects so as to include the right to buy bait and ice and to transship cargoes, why inevitably they would have said so; inevitably the new rights would have been specifically included in the matters on which your honors were to base your calculations. England might have said to the United States (I deny the position, but England might have taken the position) that American fishermen have no right to enter our waters except under the Treaty of 1818, and then not to buy anything but wood and water, and now we are opening to them the great privilege of buying bait, ice, and supplies, and transshipping cargoes, which will add immensely to the value of their fisheries. The argument would have been made, which has been made here, in the form of questions put to expert witnesses: "Is not all that essential to American fisheries?" But, on the contrary, the treaty says nothing about it. We hear of it for the first time when the counsel of the British Government are getting up their case for damages. We immediately protest against it as something not included in the jurisdiction of this court, and our Agent, Mr. Foster, on page 32 of the Answer, distinctly states—

That the various incidental and reciprocal advantages of the treaty, such as the privileges of traffic, purchasing bait, and other supplies, are not the subject of compensation, because the Treaty of Washington confers no such rights on the inhabitants of the United States, who now enjoy them merely by sufferance, and who can at any time be deprived of them by the enforcement of existing laws or the re-enactment of former oppressive statutes. Moreover, the treaty does not provide for any possible compensation for such privileges; and they are far more important and valuable to the subjects of Her Majesty than to the inhabitants of the United States.

The passages which the British counsel have referred to as an argument that the Agent of the United States had admitted that those privileges came by treaty, all refer to something quite different. A passage on page 9 of the Answer of the United States has been quoted:

* * * While practically both fishing and commercial intercourse have been carried on in conformity with the treaty ever since it was signed, May 8, 1871.

That "commercial intercourse" means the free importation on each side of the articles of commerce, the only articles of commerce the treaty refers to, fish and fish-oil. On page 14, section 2 of the Answer, it is stated:

The incidental benefits arising from traffic with American fishermen are of vital importance to the inhabitants of the British maritime provinces.

These are benefits which the British people get from us, and they are said to be only incidental, and are only introduced as a set-off, if Great Britain claimed to have the right to receive compensation for the privilege of trading in bait, &c., with her people.

May it please your honors, it is clear to our minds that the Treaty of Washington does not give us those advantages. That subject has been elaborated by the Agent of the United States and by my learned friend (Mr. Trescott). In the first place it has been said in answer to that contention, or rather it has been suggested, for it was not said with earnestness as if the counsel for the Crown thought it was going to stand as an argument, that those were treaty gifts to the United States, and though

they could not be found in any treaty, yet they were necessarily implied in the Treaty of Washington. Take the Treaties of 1783, 1818, 1854, and 1871, and they are nowhere referred to according to any ordinary interpretation of language. The only argument I can perceive is this: You have enjoyed those rights. They do not belong to you by nature or by usage, and must therefore be treaty gifts; though we cannot find the language, yet they must have been conferred by the Treaty of 1871 and the Treaty of 1854. May it please this learned tribunal, we exercised all those rights and privileges before any treaty was made, except the old treaty which was abolished by the war of 1812. Almost the very last witness we had on the stand told your honors that before the Reciprocity Treaty was made we were buying bait in Newfoundland, and several witnesses from time to time have stated that it is a very ancient practice for us to buy bait and supplies and to trade with the people along the shore, not in merchandise as merchants, but to buy supplies of bait and pay the sellers in money or in trade as might be most convenient. Now, that is one of those natural trades that grow up in all countries; it is older than any treaty, it is older than civilized states or statutes. Fisheries have but one history. As soon as there are places peopled with inhabitants, fishermen go there. The whale-fishermen of the United States go to the various islands of the Pacific which are inhabited and get supplies. To be sure the whale fishery does not need bait, but the fishermen get supplies for their own support and to enable them to carry on the fishery, and they continue to do so until those islands come to be inhabited by more civilized people. So it is with the Greenland fisheries. Then come restrictions, more or less, sometimes by treaty and sometimes by local statutes, which the foreign governments feel themselves obliged to respect; if they do not it becomes a matter of diplomatic correspondence, and might be a cause of war.

The history of this matter is that the custom for fishermen to obtain supplies and bait from countries at various stages of civilization is most ancient, most natural, most necessary, most humane, and one for which no compensation has ever been asked by any civilized nation, because it is supposed to be for mutual benefit. It is for the benefit of the fishermen to get his supplies, but the islanders would not sell them unless they thought it was also beneficial to themselves. So statutes do not create the right, but only regulate it. So do treaties. They regulate and sometimes limit the rights, but they seldom if ever enlarge them. In looking at this subject your honors will find such has been the history of the fisheries on the northeast coast of America. The fishermen began, long before these islands were well settled, even before they had recognized governments upon them, to exercise all the privileges and rights which belong to fishermen in all parts of the world where they are not limited by statutes or treaties. It was a case altogether *sui generis*. Fishing is an *innocent passage* along the coast. It is an *innocent use*; and an *innocent use and transit* are always allowed. The French claimed and the British claimed the Newfoundland fisheries, and at last a treaty settled their claims. It did not give rights, but adjusted them. And so it was with us. While we were part of Great Britain, we had all the privileges of British subjects; but the British in Newfoundland had very few claims which were not contested, and some were entirely in the hands of the French. When we were severed from the Crown, the question arose whether there was any reason why we should not continue to fish where we had always fished. We did not seek to make any claim in regard to property in the islands; we did not

ask for any privilege not a fishing privilege. The question arose whether we had not still the right to fish as an innocent pursuit, even though within the limit of three miles; and the three-mile limit and what is meant was not then settled. We must, however, discuss this subject as if there had always been an exact law, from the times of Moses down, relating to the three-mile limit and what the powers were. All this has grown up within very recent times, and indeed there are very few persons now who know what is meant by it. It was long contended that the right of all States over the three miles was for fiscal purposes, and purposes of defense only, and as the subject has been very fully argued in a recent case in England, nothing can probably be added to the reasons given on each side. The matter continued in that position. We fished without reference, and thought we had the right to do it. We knew it did no harm. The fishermen are by the law of nations a peculiar class, having special privileges. Their status is different in time of war from that of a merchantman or man-of-war. Having this question of the three-mile limit to deal with, one which was long disputed between the United States and Great Britain, and one which was always looked upon as disputed, which had had a slow and steady growth for many years, and about which no one can dogmatize, they have endeavored to arrange it as best they could. Your honors will find that in the very first treaty, that of 1783, it is stated:

It is agreed that the people of the United States shall *continue to enjoy* unmolested the right to take fish of every kind on the Grand Bank and on all the other Banks of Newfoundland; also in the Gulf of Saint Lawrence, and at all other places in the sea where the inhabitants of both countries used at any time heretofore to fish.

That was looked upon as dealing with existing rights, the exact limitations of which must rest solely in agreement. It was not a gift, as the French gave Dunkirk to England, or as Mexico gave California to the United States. It was like an adjustment of disputed territory. The only question settled in the first treaty, that of 1783, was that we should fish as before; nothing was said about the three-mile line. When we come to the Treaty of 1818 we find it stated: "Whereas differences have arisen," &c.

By that treaty it is agreed that on certain parts of the coast we shall have the right to take fish, that on certain parts we shall have the right to dry and cure fish, and that at other parts we shall not have such rights. Then came the Treaty of 1854, which said nothing about any of those rights of which I am speaking, but merely dealt with the question of our right to fish within three miles, where we could exercise it and where not, and our right to cure and dry fish and to dry nets. In Article 18 of the Treaty of 1871 the question is taken up again in the same way.

It is agreed by the High Contracting Parties that in addition to the liberty secured to United States fishermen by the convention between the United States and Great Britain signed at London on the 20th October, 1818, for taking, curing, and drying fish on certain coasts of the British North American colonies therein named, the inhabitants of the United States shall have, in common with the subjects of Her Britannic Majesty, the liberty, for the term of ten years mentioned in Article 33 of this treaty, to take fish of every kind, except shell-fish, on the sea coasts and shores, in the bays, harbors, and creeks of the Provinces of Quebec, Nova Scotia, and New Brunswick, and colony of Prince Edward Island and the several islands thereunto adjacent, without being restricted to any distance from the shore, with permission to land upon the said coasts, shores, and islands, and also upon the Magdalens, for the purpose of drying their nets and curing their fish.

Then it is stated that whereas it is claimed that Great Britain thereby has given the United States more valuable fisheries than they had before, there is something to be paid. Now, if the treaty did not give

us the right to do so, how came we to be buying bait? Why, we have always done it. From the time there was a man there with bait to sell, there was an American to buy it from him. We have never asked for the right to buy bait. You cannot find a diplomatic letter anywhere in which we have complained that we were prohibited from buying bait. After the Treaty of 1854 had expired, it is true, the Canadians, who felt sore about the matter, undertook to say we should not buy any bait; that if we did, we would be punished therefor. They were immediately stopped by Great Britain, who, without saying in terms that the Americans had a right to buy bait by the Treaty of 1817 or irrespective of all treaties, declared it to be against the policy of the nation to prohibit it; and they stopped this petty persecution of American fishermen. I care not what line of reasoning induced the British Government to take that course with their Canadian subjects. I do not care whether they considered that the Treaty of 1818 gave it to us (I do not see how they could), or whether, as is more probable, they, being large-minded men, who had studied the subject, considered it something which, not being prohibited, belonged to us, and they did not intend to prohibit it.

Now, who are the men who buy the fish for bait? They are not the men who fish within the three-mile limitation. We do not buy bait here to catch mackerel. The bait we buy is for the Banks and deep-sea cod fishery. There is no pretense from any evidence that our mackerel fishermen come here to buy bait; it is only the Bank cod-fishermen who do so. I respectfully submit to this learned tribunal that it can have nothing to do with how the fishermen on the Banks see fit to employ themselves. The Treaties of 1818, 1854, and 1871 related solely to fishing within the three miles. The Treaty of 1783 *recognizes* the right of American fishermen to fish on the Banks, on the high seas, a right which had always belonged to American fishermen, never ceded to them by any treaty, but which they hold by the right of common humanity. These men come into Canadian ports to buy bait. What has this tribunal to do with them?

Have not American fishermen fishing on the high seas the right to run into British ports by comity, by the universal law of nations, if they are not specially excluded on some ground which the United States admits to be proper and right? Have they not the right to come in and buy bait and other necessities? Great Britain possesses the power to put any regulation on them it pleases, to require them to enter at the custom-house, to be searched to see whether they are merchants in disguise, and to levy duties upon them; but in the absence of a prohibition, there is no right to prevent those fishermen buying bait or supplies.

I next come to the question of shelter, repairs, purchasing ice and other articles, and transshipping cargoes. I do not propose to admit that we have not these rights, or that we are exercising them simply because we are not punished for doing so, or that because the Treaties of 1818 or 1871 have not given them to us, we do not possess them, and that it is within the power of the provinces to exclude us from them altogether. That depends upon considerations which are not necessary for us to take in view. If your honors should decide that you have no right to recognize, among the elements of compensation, those rights of which I speak; then if the colonies should pass a law which should punish every American fisherman from the Grand Banks or inshore fisheries who should buy bait or ice or refit is guilty of an offense, it would then be a question for Her Majesty's governor-general to determine whether that was not an imperial question, and, if so, to refer it to Her Majesty in council to determine. I have no fear that any such statute

would be passed, because the number of persons interested in that traffic with American fishermen is very great, and they are voters; they have even in Newfoundland broken their chains and become a sober and saving people since they came to have cash of their own, from their trading with Americans.

I doubt whether the Canadian Government will be encouraged, however strong may be the wave of politics, to meet the people of the various constituencies and insist on this American traffic being entirely cut off. If they do it, I doubt whether Great Britain would sanction it, and if Great Britain did allow it, then it becomes at once a question between the two governments. Is that a course fair and right, in accordance with the comity of nations, in accordance with practices which are earlier than when the first Disciples threw their nets into the sea of Galilee—is not such a course an interference with a right practiced from earliest times, and without good reason for the prohibition? You may put regulations on us so that our fishermen shall not be smugglers in disguise, and so that merchants shall not come in the disguise of fishermen: but to prohibit American fishermen from purchasing bait and supplies, not in case of necessity merely, but as part of the plan of their trade, and transshipping cargoes, would be a violation of the spirit which has governed the commercial relations between the two empires.

I would therefore present a summary of the matter thus: The only matter of dispute between Great Britain and the United States in the Treaty of 1783 related to the inshore fisheries, I mean the right to catch fish more or less near the British coast, and in addition to that to cure and dry fish. The Treaty of 1783 acknowledged the general right.

The Treaty of 1818 gave us certain places, which were named, where we could exercise those fishing rights, and stated certain places where we could not exercise them; but it did not undertake to deal with the commercial side of the fisheries question. The Treaty of 1854 was the same: it gave a general right to fish within these Dominions, and to land and dry them in certain places. The only question of late has been whether Great Britain has the right, without any treaty, to exclude us from three miles of the coast. That was Mr. Adams's famous argument with Earl Bathurst. We said in the Treaty of 1818 that, as a right, we no longer claimed it. That is the meaning of the treaty—that having claimed it as a right inherent in us, either because we did not lose it at the time of the Revolution, or from the nature of fisheries, or on some other ground, we no longer claimed it as a right which cannot be taken away from us but at the point of the bayonet. But while we say we will not go within the three miles to fish without permission, it must not be held that vessels cannot go there for shelter and repairs and for wood and water, but may be put under such regulations as will prevent us from doing anything further. It is entirely a matter for Great Britain to determine what regulations we should be placed under, in those respects, and she has seen fit to make none. The Statute 59, George III., passed to carry out the Treaty of 1818, prohibited fishing or preparing to fish in certain boundaries. A decision has been rendered in one province that buying bait was "preparing" to fish. In another province other a decision was rendered directly the way.

That, however, is a local matter altogether. The decision rendered in New Brunswick was that the prohibition of "preparing to fish" must apply only to those who intended to fish within the prohibited degree; that the buying of bait, whether it was a step in preparing to fish or not, was not an offense unless the fishing itself would be an offense. If an American bought bait here to go off to Greenland or to the Mediterranean to fish, it could not be considered an offense. Great Britain can-

not make a statute which would alter our rights under this treaty nor revive an old statute to do so. The learned judge was careful to say that he did not mean to apply his decision one step beyond the point of taking bait for the purpose of fishing within prescribed limits.

Sir ALEXANDER GALT. I desire to ask the learned counsel (Mr. Dana) if I understood him to say that no seizure or confiscation of American fishing-vessels took place before 1854. I think there were confiscations, and I should like to know whether those confiscations were confined to vessels catching fish and that alone, within the three-mile limit.

Mr. DANA. So far as I am concerned, I assume that there has been no condemnation for "buying bait."

Sir ALEXANDER GALT. I do not refer especially to the purchase of bait, but to anything except catching fish.

Mr. THOMSON. There have been several convictions for catching bait.

Mr. FOSTER. I never had my attention called to any conviction or attempted conviction, except for fishing inside, the case of the Nickerson, before Sir William Young, at Halifax, in 1870, and still later the decision in New Brunswick in the case of the White Fawn.

The first was the only case I have heard of in which there was a conviction for "preparing to fish."

Sir ALEXANDER GALT. I do not specially refer to "preparing to fish," because there are other offenses created by the statute.

Mr. FOSTER. I have here a list of vessels seized up to 14th December, 1870, and the following are entered as their offenses:

"Actively fishing; the men on board in the act of hauling in their lines." "At anchor preparing to fish, and a quantity of fresh-caught herring in the hold; taken on the spot, having been previously warned off." "Smuggling." "Fishing seven days in Gaspé Harbor, and preparing to fish at time of seizure." "At anchor; lines set, on which were six halibut." "Throwing out bait, and crew casting their fishing-lines." "Smuggling." "Having fished in the cove, and actually found with mackerel wet and dripping, and hooks baited with fresh bait; also fresh-fish blood and mackerel offals on deck." "Smuggling." "Having fished at Three Islands, Grand Manan." "Preparing to fish at Head Harbor, Campo Bello."

The last was the case in regard to preparing to fish, and where the learned judge discharged the vessel in opposition to the decision of Sir William Young in the case of the Nickerson.

Mr. THOMSON. In the case of the White Fawn, decided at St. John, the decision, as I understand it, is not in conflict with that of Sir William Young. Sir William Young condemned the Nickerson because it was fishing, or preparing to fish, within the prescribed limits. In the St. John case the libel was framed expressly for buying bait within the harbor, with the intention of fishing. It was shown that the fisherman had purchased bait, but evidence that he went in there with the intention of fishing was wanting.

Mr. THOMSON. The question is whether there has ever been a conviction of an American vessel for taking bait. I call your attention to the fact that the Java, Independence, Magnolia, and Hart were convicted in 1839 of being within the prescribed limits and cleaning fish on deck. In 1840 the Papineau, Alms, and Mary were seized and sold for purchasing bait on shore.

Mr. TRESCOT. The judgment went by default. There was no defense made.

THURSDAY, September 6.

The Conference met.

Argument resumed.

Mr. DANA. Mr. Foster will state the results of inquiries made respecting the condemnation of American vessels.

Mr. FOSTER. The substance of the facts, as we understand them, will be found in a dispatch from Judge Jackson to Hon. Bancroft Davis, dated March 11, 1871, which is as follows :

UNITED STATES CONSULATE AT HALIFAX, NOVA SCOTIA,
March 11, 1871.

SIR: I have the honor to inform you that, after examination and inquiry, I have not been able to find a single adjudicated case in this province which can be cited as legal authority, arising under the Treaty of 1818, which declares the right, either under the treaty or the statutes enacted for its enforcement, to confiscate American fishing-vessels for purchasing supplies in colonial ports.

The vessels referred to in a pamphlet (page 12) published at Ottawa, under the direction of the Canadian minister of marine and fisheries, entitled "A Review of President Grant's Message," as having been seized for a violation of the fishery laws, namely, the schooners Java, Independence, Magnolia, and Hart in 1839, and schooners Papineau and Mary in 1840, were condemned by the vice-admiralty court in default of the appearance of defendants upon ex-parte affidavits.

From the small sums for which the vessels sold, it is not improbable that they were bought in for the benefit of the owners.

Although it is stated in the affidavits on the files of the court that the masters of some of the vessels had purchased bait, yet it is specially noticeable that the charge made against the schooners Java, Independence, Magnolia, and Hart by the seizing-officer, Capt. J. W. E. Darby, as the ground of such seizure, was in the following language: "The deponent saith that he believes that the sole object of the masters of the said vessels was to procure fish, and that they were, at the time of their seizure, preparing to fish."

In the case of the schooners Papineau and Mary, seized in June, 1840, for a violation of the fishery laws, the same seizing-officer set forth in his affidavit, as the grounds of the seizure of these vessels, that the "deponent verily believed that the said vessels were frequenting the coast of this province for the purpose of fishing there and for no other purpose whatever."

The seizure and condemnation of these several vessels—four in 1839 and two in 1840—cited in the pamphlet referred to, in support of the unusual and extreme measures of last summer, in relation to American fishing-vessels, afford, as will be seen from the facts here stated, no legal justification for such measures, and cannot be regarded in any respect authoritative adjudications upon the points in controversy between the United States and Great Britain respecting the fisheries.

I have the honor to be, sir, your obedient servant,

M. M. JACKSON,
United States Consul.

HON. J. C. BANCROFT DAVIS,
Assistant Secretary of State, Washington, D. C.

Referring to the paper which was put in by the British counsel, on page 12 of document No. 31, there is a memorandum of all the vessels seized and condemned by the vice-admiralty court of Prince Edward Island, and it is stated at the end of each case: "I cannot find from any papers in this case, at present in the registry of this court, that this vessel was ever interfered with by government officers for transshipping fish or purchasing supplies." As to the New Brunswick cases, of which there is a statement at the top of page 10, document 21, I am not able to ascertain because we have not access to the papers. There were not many cases in New Brunswick; seven between 1822 and 1852. There is also at the foot of page 6, document No. 15, a record of the cases condemned at Halifax. Mr. J. S. D. Thompson has made a memorandum of each of those cases, and there is no case where a vessel was forfeited for buying bait or other supplies, or for transshipping cargo. The statement of 59 George III is the same in substance with the colonial statute. By that statute vessels are libeled and forfeited in the admiralty court for no other offense than that of being found fishing, or having fish on board, or preparing to fish. The fourth article imposes a penalty of £200, recoverable by action at common law, on a fisherman refusing to depart from the territorial waters when warned by the party authorized to do so. Among the Halifax cases it will appear that some are marked as restored, and two others at least were

restored upon payment of the expenses, namely, the Shetland and Eliza. The Washington was paid for; and in no instance, as I am informed, was there a condemnation for anything except fishing or preparing to fish; and acts indicative of preparing to fish are always shown to be some acts of immediate preparation, like having bait ready on board. Then we come in 1871 to Sir William Young's decision, where he forfeited a vessel for buying bait, holding that buying bait was a preparation to fish. That was the case of the Nickerson. The vessel was seized in 1871, and forfeited the following year. About the same time a similar case was tried in New Brunswick by Judge Hazen, who held the reverse of Sir William Young's decision. Judge Hazen held that the purchase of bait, unless it was proved to have been purchased to use in illegal fishing, was not a preparation to fish illegally, and that a vessel that came into Halifax or St. John to buy bait to fish on the Banks of Newfoundland, was not violating any treaty. It was always felt by the United States that the distinguished judge, Sir William Young, had overlooked the fact that in the case before him the vessel that bought the bait did not buy it to fish for mackerel in territorial waters, but on the coast of Newfoundland. There is that one authority for holding that it was contrary to law to come in here for cod and buy bait for outside fishing, and, so far as I am aware, there are only these two cases on the question, and opinions are equally balanced.

Mr. THOMSON. In the case of the White Fawn, tried by Judge Hazen, the vessel was libeled for taking bait in our waters, with the intention of fishing there. She was not charged with the offense against the treaty of purchasing bait within three miles of the shore, but she was distinctly charged with obtaining bait with the view of fishing there, and Judge Hazen held—and I apprehend properly held, for he is an able lawyer and sound judge—that the evidence did not support the allegation. The evidence probably showed that the intention was to take the vessel and fish on the Banks of Newfoundland, where it had no doubt a right to fish, and therefore the case failed, because while the offense was complete, the allegation did not support it.

Mr. FOSTER asked for further explanations.

Mr. THOMSON. What I say is this: that while this was a distinct offense under the treaty, and while the statute expressly covered that offense, and while a vessel could be libeled and condemned for buying bait on our shores, yet the framer of the libel had been pleased to frame it not simply for the offense of buying bait, which he might have done and had the vessel condemned, but for buying bait with the intention to fish in these waters, and he failed to prove the latter allegation.

Mr. FOSTER. Our answer to that contention would be that there is no statute. There is a statute to cover the cases of vessels fishing and preparing to fish:

II. *And be it further enacted*, That from and after the passing of this act it shall not be lawful for any person or persons, not being a natural-born subject of His Majesty, in any foreign ship, vessel, or boat, nor for any person in any ship, vessel, or boat, other than such as shall be navigated according to the laws of the United Kingdom of Great Britain and Ireland, to fish for, or to take, dry, or cure any fish of any kind whatever, within three marine miles of any coasts, bays, creeks, or harbors whatever, in any part of His Majesty's Dominions in America, not included within the limits specified and described in the first article of said convention, and hereinbefore recited: and that if any such foreign ship, vessel, or boat, or any persons on board thereof, shall be found fishing, or to have been fishing, or preparing to fish within such distance of such coasts, bays, creeks, or harbors, within such parts of His Majesty's Dominions in America out of the said limits as aforesaid, all such ships, vessels, and boats, together with their cargoes, and all guns, ammunition, tackle, apparel, furniture, and stores, shall be forfeited.

To come within the statute the fisherman must either be fishing or preparing to fish within three miles of the coast.

Mr. THOMSON. It is a question of construction. It is preparing to fish or fishing within these waters. The preparing to fish is a complete offense in itself, and it is by no means necessary to fish in these waters.

Mr. FOSTER. The expression is "within that distance." You think the "preparing to fish" is preparing to fish within the limits, or anywhere.

Sir ALEXANDER GALT. The reason I made the inquiry was with regard to the argument of the learned counsel (Mr. Dana), who was holding, as I understood him, that no interference had been made upon these fishing-grounds with American fishermen. It was because I was under the impression that the official correspondence would show that vessels had been seized and condemned that I made the inquiry.

Mr. DANA. After the long time given me yesterday I feel I ought to do no more than to give a summary of the points upon which I suppose this question will be determined. In the first place, then, this tribunal, in computing compensation, can only take into consideration the value of what is accorded to the United States by the Treaty of 1871, and by the eighteenth section of that treaty. Then the tribunal shall take into consideration the value of what is accorded to Great Britain by the nineteenth and twenty-first sections, debiting the United States with the value of what she gains under the eighteenth section, and crediting the United States with what she accords under the nineteenth and twenty-first sections. The court will perceive how very close and fine this arrangement was made.

This tribunal is not to ascertain what the United States possessed by treaty or otherwise in 1870, and charge us for what we have gained in addition thereto, by whatever means, or to draw general inferences from the whole treaty, what we may have got and Great Britain may have given, but your honors are to assess the value of specific liberties and rights accorded by the eighteenth section and charge them to the United States, and assess the pecuniary value of certain specific rights and privileges accorded in the nineteenth and twenty-first sections, and credit us with them.

Moreover, it must be something accorded to us in addition to what we had under the Treaty of 1818. Under that treaty the United States had the right to fish, and to land and dry nets, on certain portions of the coast of Newfoundland; on the shores of the Magdalen Islands; on the coasts, bays, harbors, and creeks in certain parts of Labrador; and to land and cure fish in any of the bays, &c., in Newfoundland and Labrador. The treaty of 1871 simply gives a territorial extension to those rights. It adds no new rights either in terms or by implication. No doubt this tribunal will be exceedingly careful not to assess compensation for any right or privilege which is not clearly so given, and which, after compensation has been assessed, may be matter of dispute between the two countries.

If there has been a want of clearness as to what has been conceded to Great Britain or conceded to us, neither side can expect to obtain compensation for matters left in doubt. No treaty ever made between the United States and Great Britain on the subject of the fisheries has noticed the purchasing of anything by the fishermen, except it be the Treaty of 1818, which says American fishermen shall have the right to *purchase* wood and *procure* water. I suppose the reason why the clause was inserted in that form was to show it was not intended that we should have the right to cut wood. If your honors will examine the treaties

from that of 1783 to that of 1871, you will find they never had for their scope or purpose any provisions regarding trading or purchasing, but related solely to the right to fish, and to use the shores for the purpose of drying and curing. In framing the Treaty of 1871 care was taken to name the rights. It gave the right to fish. What kind of fish? Not shell-fish, nor salmon, nor river fish. Care is taken also to describe for what purpose American fishermen may land. It is to dry nets, cure and dry fish. There is no reference to purchasing anything except in the Treaty of 1818, in regard to purchasing wood, and that subject has been intentionally left out of all treaties, or it would be more accurate to say that to include such matters in a treaty was never considered as apposite. The Treaty of 1871, as I have said, grants a territorial extension of specified, long-existing rights, and the only question in dispute between the United States and Great Britain has always been as to the territorial extent of the right of fishing.

The question arose, can we fish on the Grand Banks? England said "No," but she gave up that contention in 1783. Then England said that American fishermen could not fish within three miles of its coasts from a line drawn from headland to headland. Dispute arose again as to the correctness of that territorial designation, but the subject-matter was the drawing of fish from the sea. At last it became settled that we should not fish within the three miles unless with the consent of Great Britain expressed through a treaty or otherwise. Then occurred the question as to what constitutes three miles—three miles from what? Always the dispute was as to the territorial extent of a specified right, the right to fish, and all the treaties were made for that purpose. Incidentally there was always brought in the question of places, not being private property, where the fishermen could land for the purpose of drying nets and curing and drying fish. These were the subject-matters of every treaty, the occasion of every dispute, and these were all that were settled by the Treaty of Washington. Great Britain gave to the United States an extended territoriality, up to the very banks, up to high-water mark everywhere; and the United States gave the same extended territoriality to Great Britain, to fish in the United States northward of 39th parallel. Then there were certain extensions of territory for the curing and drying of fish. By Article 21 the United States gives to Great Britain, and she accords to us, the right of free trade, reciprocity, in fish and fish-oil. That is purely a commercial clause. It might have been made a treaty by itself. It has no connection with fishing or the curing and drying of fish. When your honors come to estimate the pecuniary valuation of the concessions on each side, we contend that the pecuniary value of that concession made by the United States to Great Britain, which is purely fiscal, is very great.

It is conceded by the British counsel, I believe, that those rights of which I speak were not given in the terms of the Treaty of Washington, and cannot be found there. The only argument on the side of the Crown—and I think I state it fairly and with its full force—is this: "You have those rights now; you did not have them before the treaty; therefore you must have got them by the treaty. You did not have them until 1854, and you possessed them from 1854 to 1866 under the Reciprocity Treaty. You did not have them during the interval. They were revived in 1871, and you have had them since. Their history shows they must have come by treaty." Instead of the word "have," I would substitute the word "exercise," and say we exercised those rights. We exercised them long before that period. Evidence has

been adduced before the Commission which has shown that those rights were exercised by the United States entirely irrespective of treaties.

Before the Treaty of 1854, when we had nothing but the Treaty of 1818 to stand upon, which, as a treaty, certainly did not give us any of those rights, we exercised them. We exercised them also irrespective of and never by virtue of the Treaty of 1854. We exercised them in the interval between 1866 and 1871, as we are exercising them now. The court will not be able to find any connection between the treaties and the exercise of those rights. They have never been exercised the more or the less by reason of any treaties. It is not incumbent upon us to show why we are in the exercise of those rights. It is rather a speculative inquiry on the part of the British counsel as to where we got them, or whether we have them at all. Suppose I were to concede that we had no right to buy bait or ice or supplies, or transship cargoes anywhere on these coasts, certainly that ends the argument, because we cannot be called upon to pay for something which we have not got. If the proper construction of the Treaty of 1818 is that fishermen have no right as fishermen and by the general law, irrespective of the consent of the Crown, to buy bait, ice, and supplies, and transship cargoes in British dominions, then I concede that, as regards American fishermen fishing within the three-mile limit, we have not those rights. Why are we, then, in the exercise of them? In that case, by the concession of the Crown. There is, however, no statute against fishermen buying bait, obtaining supplies, bartering or transshipping fish, if they comply with the fiscal regulations of the government regarding all trade and commerce. If a fisherman has violated no statute or rule respecting trade, commerce, and navigation in this realm, there is no statute which can condemn him, because he is a fisherman, for having bought bait and supplies and transshipped cargoes. So long as there is no statute prohibiting it, our fishermen have gone on exercising that privilege, not believing they were excluded from it by the Treaty of 1818, whether they were correct or not. It is in that view only that the facts regarding seizures are of any importance; but yet we may make our answer at once and say, whether we have the right to do those things or not, we do not pretend that it was given to us by the Treaty of 1871. Your honors will not be able to find it included under Article 18 of that treaty. But it is ever satisfactory to be able to account for all the surrounding circumstances of any question. It seems there was a statute passed in 1819, 59 George III, generally against foreign vessels which shall be found fishing, or be found having fished, or be found preparing to fish within the prescribed limits. The statute reaches before and after the act. It is not necessary that fishermen should be taken in the act of fishing. That would be a statute very difficult to interpret and very easy to evade, which required that fishermen should be taken in the act of fishing. So the statute says, if a foreign fisherman is found having fished, or in the act of fishing, or preparing for the act of fishing within the prescribed waters, he is to be treated as an offender. We see no objection to that statute. The preparing to fish is a step in the process of fishing.

But the true construction of that statute is of very little importance. Yet certainly it must be meant that the act prepared for must have been illegal, for it cannot be supposed for one moment that Great Britain intended to say that no foreign vessels, French or American, should come into the provinces and buy bait for the purpose of fishing off the Grand Banks or the coast of Greenland. If this province got a reputation for having some bait which certain kinds of fish off Greenland swallow with

eagerness, and a Danish vessel should come here and buy it in the market, complying with all the regulations of the market and fiscal laws, and then set sail for Greenland, surely that vessel could not be seized and condemned.

I have put the argument of the counsel for the Crown as strong as I could put it; they say you exercise that right now and you did not exercise it before. Our answer is simply that we have always exercised it, and that we have done it irrespective of the Treaty of 1854 or of the Treaty of 1878. We have never been interfered with in exercising it. There is no case of condemnation of a vessel for exercising that right; and if there had been a good many, it would have made no difference to your honors, because the judgments would have been simply the provincial interpretation of the treaty given *ex parte*, and it is certain that no act of Great Britain has ever sanctioned the position that the United States had not this right, irrespective of treaties. Then, as has been suggested by my colleagues—and I follow the suggestion merely—the whole correspondence between the governor-general and the head of the colonial office, and between the United States Government and the British Government, shows that Great Britain never intended that American fishermen should be excluded from the use of those liberties or rights, whatever be our claim to them, or whether we had them as of right or not. These privileges are those which fishermen have always exercised, and it has only been as population has increased and fiscal laws have become important and the inhabitants have become more apprehensive in regard to vessels hovering about the coast, that nations have enacted laws restricting persons in the exercise of those rights. The learned counsel in support of his argument cited *Phillimore, I*, page 224, *Kent's Commentaries*, vol. 1, pages 32 to 36; and *Wheaton's Int. Law* (Dana's ed.), sections 167, 169, and 170.

I have read these passages, Mr. Dana continued, not that they distinctly assert, or, indeed, that they take up the very question I am presenting before this tribunal, but they show the general principles upon which the great writers on international law—the governments themselves and the people—have acted with regard to fishermen and their rights, especially of supplying their wants from time to time in the ports and harbors of all countries. These rights have been recognized as incidental to the nature of man and the nature of the earth he occupies. However boastful we may be of ourselves, we are such feeble creatures that we cannot subsist many hours without food, shelter, and clothing, and fishermen and sailors must get these where they can. Laws respecting pure commerce, that is, the right to go with a cargo to sell and turn it into the great body of the property of the country, rest on other grounds; but the right to exercise the industry by which men live, as fishermen do by fishing, should be extended as far as possible, and originally had no limit. It passed within the category of those imperfect rights, such as innocent transit and innocent use of waters. These rights have been exercised for the reasons there assigned, which are deeper as well as older than all treaties, conventions, and statutes.

As the treaties stand, fishing is an innocent use of all the waters of the Dominion. Great Britain has never prohibited the exercise of those rights. She may find it expedient to do so, or the policy of the Dominion or perhaps some excited political feeling or hostility against the United States for some wrong, real or supposed, may lead it to do so; but it has never been done, and that is the reason why we have always been in the exercise of those rights. When the provincial government

undertook to exclude us from those privileges, they were taken to account at once, and their action was stopped by the British Government.

We are now brought to the last question, and that is, did we renounce those rights, the right to purchase bait, ice, supplies, and to transship, by clauses in the Treaty of 1818? For the purpose of this argument, I am perfectly indifferent which way your honors shall construe these clauses. The Government of the United States does not interpret them as a renunciation of these rights. I do not believe, I cannot believe, that the treaty had any such reference. But it is certain that nothing therein refers to the purchasing of cargoes of frozen herring, which has been often referred to before the Commission. That is a purely mercantile enterprise. A Boston vessel comes to this coast with a manifest, and equipped in every respect as a trader, though a fisherman at all other times, and after satisfying the custom-house authorities, she purchases a cargo of frozen herring, and proceeds with them to the Boston market. That is a commercial enterprise; it is not anything that is renounced by fishermen, as such, in the exercise of his rights to fish. Suppose a merchant at Newfoundland should take a fishing vessel not employed at that time, and load her with frozen herring, and send her to Boston, where, after she had been entered at the custom-house, and satisfied all the fiscal regulations, her cargo would be sold. Would any one pretend that her right to do that was derived from the treaty giving a right to fish within three miles of the American coast, and land and dry their nets? Certainly not. Therefore we may cut off at once all reference to that. If your honors shall say that by the Treaty of 1818 the United States did not renounce those rights, and did not notice them one way or another, that is sufficient for us. If your honors shall decide that so far as fishing within three miles is concerned, the United States renounced the right to purchase anything except wood, then we submit that the right of purchasing anything else has not been granted to us by the Treaty of 1871, and therefore we cannot be called upon to make any compensation.

We are satisfied that the United States are permitted by the British Government to do those acts, whether it be from comity, from regard to the necessities of fishermen, from policy, or from some other reason, I know not, and so long as we are not disturbed we are content. If we are disturbed, the question will then arise, not before this tribunal, but between the two nations, whether we are properly disturbed by Great Britain; and if we should come to the conclusion on both sides, that there being a dispute on that subject which should be properly settled, then it is to be hoped that the governments will find no difficulty in settling it; but this tribunal will discharge its entire duty when it declares that under Article 18 of the Washington Treaty no such rights or privileges are conceded to the United States.

MR. THOMSON. I do not propose to answer Mr. Dana's argument at present, but I will call the attention of the Commission to the fact that it was an original argument and not a reply. In view of the fact that there are a number of witnesses waiting to be examined, and the short time the Commission has to sit before it takes an adjournment, I do not propose now to offer any observations in reply to the learned counsel, but no doubt before the case is through, previous to that time, I will take occasion to answer the arguments.

MR. DANA said the announcement of the learned counsel seemed as if he assumed the right to make an indefinite adjournment of the hearing, and at some future day to reply to the arguments.

MR. THOMSON said he did not desire to interfere with an immediate

decision, and his remarks were made simply that Mr. Dana's argument might not be considered as having been passed on the part of the counsel for the Crown *sub silentio*.

Mr. FOSTER asked for an early decision on the motion.

The Commission retired to deliberate, and on their return the President read the following decision :

The Commission having considered the motion submitted by the Agent of the United States at the conference held on the 1st instant, decided—

That it is not within the competence of this tribunal to award compensation for commercial intercourse between the two countries, nor for the purchasing bait, ice, supplies, &c., &c., nor for the permission to transship cargoes in British waters.

Sir ALEXANDER T. GALT. Mr. President, as this Commission has been unanimous on this question, I desire, with the permission of my colleagues, but without committing them to the same line of argument which has convinced myself, to state the grounds upon which I feel it my duty to acquiesce in the decision. I listened with very great pleasure to the extremely able arguments made on both sides, and I find that the effect of the motion, and of the argument which has been given upon it, is to limit the power of this tribunal to certain specified points. This definition is undoubtedly important in its consequences. It eliminates from the consideration of the Commission an important part of the case submitted on behalf of Her Majesty's Government; and this is undoubtedly the case so far as this part forms a direct claim for compensation; but, at the same time, it has the further important effect that it defines and limits the rights conceded to the citizens of the United States under the Treaty of Washington. Now, I have not been insensible to the importance of the considerations that have been addressed to us by the counsel for the Crown in reference to the inconvenience that may arise from the decision at which this tribunal has arrived. I can foresee that, under certain circumstances, those inconveniences may become exceedingly great, but I cannot resist the position taken by the counsel of the United States in stating that, if such inconveniences arise, they are matters which properly fall within the control and judgment of the two governments, and not within that of this Commission. On the other hand, I cannot fail to see that, while this is admitted, a remote and contingent inconvenience, a very important difficulty, and one of a very serious character, would arise if from any cause this Commission were to exceed the powers which are given to the Commissioners under the Treaty of Washington.

The difficulty would at once arise that any award whatever which it made, be it good or bad, be it favorable to the one party or to the other, would have been vitiated by our having acted *ultra vires*. I do not find, either, that there would be any ready escape from such a position. The treaty affords no machinery by which this question in regard to the fisheries can be adjudicated upon if this Commission should, from any unfortunate cause, be allowed to lapse; therefore, with regard to the two inconveniences in question, the one which strikes at the root of the whole treaty is that which ought to weigh with me, if I were placed in such a position as to be obliged to weigh such inconveniences; but, as I shall state before I conclude, there are other and stronger considerations present to my mind. I have in common with my colleagues entered into a solemn obligation to decide judicially upon all questions coming before this tribunal, and I feel it incumbent upon me, therefore, to give every possible weight, every due weight, to whatever may be said on either side, and I certainly have hitherto endeavored to do so, and I have done so in this case. I shall endeavor to pursue the same course, acting under

the same considerations, in the future. At the same time, I confess to a great feeling of disappointment that such an important part of the question connected with the settlement of the fisheries dispute should apparently be removed, or partly removed, from the possible consideration and adjudication of this tribunal, and I am bound to say that my conviction of the intention of the parties to the Treaty of Washington is that this was not their purpose at the time.

I have listened with very great attention to the arguments presented on behalf of the United States, but I do not think that they have correctly stated the position of the two parties at the time when the Treaty of Washington was entered into. The history of this case begins, as has been stated by counsel, as far back as 1783, but by common consent the Convention of 1818 is the treaty by which the fishery rights of the two countries have subsisted. Under the Convention of 1818 certain things were forbidden to the United States fishermen, and the United States renounced the right to do anything except what they were permitted to do by the words of that treaty. They renounced forever any liberty of taking, drying, or curing fish, etc., "provided that the American fishermen shall be permitted to enter the said bays or harbors for the purpose of shelter, and of repairing damages therein, of purchasing wood and obtaining water, and for no other purpose whatever." By the imperial Act 59, George the Third, Chapter 38, and by several colonial statutes, restrictions and definitions were imposed or were established with regard to offenses arising from infringements of those privileges conferred upon American citizens, though it has not been shown that the seizures which took place prior to 1854 were for trading or for obtaining supplies, or for any other benefit referred to in the motion, still it is undoubted that arising out of this legislation great irritation arose between the two countries, and this resulted in the adoption of what is known as the Reciprocity Treaty in 1854. That the Reciprocity Treaty was understood to have removed all those restrictions is unquestionably shown to be the case, to my mind, by the action taken by Great Britain and the colonies when the treaty came into force.

Immediately afterward, all statutes which had operated against the American fishermen were suspended, and the greatest possible freedom of intercourse existed during the continuation of that treaty. At the termination of the Reciprocity Treaty, and in support of the view that it was supposed to have given those privileges, we find the whole of these enactments revived, and we also find that subsequently more stringent statutes were passed by the Dominion of Canada in this relation. Now, it is important in the history of this case to consider what effect was produced by those statutes; and we find in a most important public document, that is the annual message of President Grant to Congress, in 1879, that this legislation on the part of the colonies was made the subject of the gravest possible complaint. The President states that:

The course pursued by the Canadian authorities toward the fishermen of the United States during the last season has not been marked by a friendly feeling. By the first article of the Convention of 1818, between Great Britain and the United States, it was agreed that the inhabitants of the United States should have forever, in common with British subjects, the right of taking fish in certain waters therein defined. In the waters not included in the limits named in the convention, within three miles of parts of the British coast, it has been the custom for twenty years to give to intruding fishermen of the United States a reasonable warning of their violation of the technical rights of Great Britain. The Imperial Government is understood to have delegated the whole or a share of its jurisdiction or control of these inshore fishery-grounds to the colonial authority, known as the Dominion of Canada, and this semi-independent but irresponsible agent has exercised its delegated powers in an unfriendly way—vessels have been seized without notice or warning, in violation of the custom previously

prevailing, and have been taken into the colonial ports, their voyages broken up, and the vessels condemned. There is reason to believe that this unfriendly and vexatious treatment was designed to bear harshly upon the hardy fishermen of the United States, with a view to political effect upon the government.

That is not all. The President went further, and made a second complaint in this language :

The statutes of the Dominion of Canada assume a still broader and more untenable jurisdiction over the vessels of the United States; they authorize officers or persons to bring vessels hovering within three marine miles of any of the coasts, bays, creeks, or harbors of Canada into port, to search the cargo, to examine the master on oath touching the cargo and voyage, and to inflict upon him a heavy pecuniary penalty if true answers are not given, and if such a vessel is found preparing to fish within three marine miles of any of such coasts, bays, creeks, or harbors, without a license, or after the expiration of the period named in the last license granted to it, they provide that the vessel with her tackle, &c., shall be forfeited. It is not known that any condemnations have been made under this statute. Should the authorities of Canada attempt to enforce it it will become my duty to take such steps as may be necessary to protect the rights of the citizens of the United States.

The President further goes on to say :

It has been claimed by Her Majesty's officials that the fishing-vessels of the United States have no right to enter the open ports of the British possessions in North America, except for the purpose of shelter and repairing damages, of purchasing wood and obtaining water; that they have no right to enter at the British custom-houses, or to trade there, except for the purchase of wood or water, and that they must depart within twenty-four hours after notice to leave. It is not known that any seizure of a fishing-vessel carrying the flag of the United States has been made under this claim.

These were complaints which were made in the annual message of President Grant in 1870; and he concludes by suggesting to Congress the course that should be taken in reference to this matter, in the following words :

Anticipating that an attempt may possibly be made by the Canadian authorities in the coming season to repeat their unneighborly acts towards our fishermen, I recommend you to confer upon the Executive the power to suspend by proclamation the operation of the laws authorizing the transit of goods, wares, and merchandise in bond across the territory of the United States to Canada; and further, should such an extreme measure become necessary, to suspend the operation of any laws whereby the vessels of the Dominion of Canada are permitted to enter the waters of the United States.

It is, therefore, plainly evident that disagreements were in existence at that time with regard to the fisheries, and that the fear that they would produce serious complications between the two countries was present in the minds of the President and Government of the United States. Well, the history of the case goes on to show that these complaints made by President Grant were the foundation of the negotiations which led to the adoption of the Washington Treaty; and it is important to observe, on examining that treaty, that the means whereby President Grant proposed to Congress to insure the repeal of these so called unfriendly acts on the part of Canada, by repealing the bonded system, and by putting on other restrictions, which President Grant proposed to apply to that particular purpose, are, by the clauses of the Washington Treaty, dealt with for the term of that treaty in another way, and for other considerations; therefore, to my mind, it leaves me in this position, in endeavoring to interpret the intentions of the parties to the Washington Treaty, that it must necessarily have been supposed that, as in the case of the Reciprocity Treaty, so in the case of the Washington Treaty, the rights of traffic and of obtaining bait and supplies were conferred, being incidental to the fishing privilege. It could scarcely be otherwise, because in the case of the Reciprocity Treaty commercial advantages were the compensation which the United States offered to Great Britain for the concession of the privilege of fishing in

her waters; while, by the Washington Treaty, compensation in money, exclusively of the free admission of fish, is to be made the measure of the difference in value; therefore I quite believe that the intention of the parties to the treaty was to direct this tribunal to consider all the points relating to the fisheries, which have been set forth in the British case. But I am now met by the most authoritative statement as to what were the intentions of the parties to the treaty. There can be no stronger or better evidence of what the United States proposed to acquire under the Washington Treaty than the authoritative statement which has been made by their Agent before us here, and by their counsel. We are now distinctly told that it was not the intention of the United States, in any way, by that treaty, to provide for the continuation of these incidental privileges, and that the United States are prepared to take the whole responsibility, and to run all the risk of the re-enactment of the vexatious statutes, to which reference has been made.

I cannot resist the argument that has been put before me, in reference to the true, rigid, and strict interpretation of the clauses of the Treaty of Washington. I therefore cannot escape, by any known rule concerning the interpretation of treaties, from the conclusion that the contention offered by the Agent of the United States must be acquiesced in.

There is no escape from it. The responsibility is accepted by and must rest upon those who appeal to the strict words of the treaty as their justification. I therefore, while I regret that this tribunal does not find itself in a position to give full consideration to all the points that may be brought up on behalf of the Crown, as proof of the advantages which the United States derive from their admission to fish in British waters, still feel myself, under the obligation which I have incurred, required to assent to the decision which has been communicated to the Agents of the two governments by the president of this tribunal.

IV.

CLOSING ARGUMENT OF HON. DWIGHT FOSTER ON BEHALF OF THE UNITED STATES.

GENTLEMEN OF THE COMMISSION: It becomes my duty to open the discussion of this voluminous mass of evidence, which has occupied your attention through so many weeks. It is a satisfaction to know that many topics, as to which numerous witnesses testified, and over which much time has been consumed, have been eliminated from the investigation, so that they need not occupy the time of counsel in argument, as they are sure not to give any trouble to the Commissioners in arriving at their verdict. The decision of the Commission, made on the 6th of September, by which it was held not to be competent for this tribunal to award compensation for commercial intercourse between the two countries, or for purchasing bait, ice, supplies, &c., or for permission to transship cargoes in British waters, is based upon the principle—the obvious principle, perhaps, I may properly say—that no award can be made by this tribunal against the United States, except for rights which they acquire under the treaty; so that, for the period of twelve years, they belong to our citizens, and cannot be taken from them. For advantages conferred by the treaty, as vested rights, you are empowered to make an award, and for nothing else.

The question before you is whether the privileges accorded the citizens

of the United States by the Treaty of Washington are of greater value than those accorded to the subjects of Her Britannic Majesty; and if so, how much is the difference, in money? The concessions made by each government to the other in the treaty were freely and voluntarily made. If it should turn out (as I do not suppose it will) that in any respect the making of those concessions has been injurious to the subjects of Her Majesty, you are not on that account to render an award of damages against the United States. The two governments decided that they would grant certain privileges to the citizens of one and the subjects of the other. Whether those privileges may be detrimental to the party by whom they have been conceded is no concern of ours. That was disposed of when the treaty was made. Our case before this tribunal is a case, not of damages, but of an adjustment of equivalents between concessions freely made on the one side and on the other. It follows from this consideration, gentlemen, that all that part of the testimony which has been devoted to showing that possibly under certain circumstances American fishermen, either in the exercise of their treaty rights, or in trespassing beyond their rights, may have done injury to the fishing grounds, or to the people of the provinces, is wholly aside from the subject-matter submitted for your decision. The question whether throwing over gurry hurts fishing-grounds—the question whether vessels lee-bow boats—and all matters of that sort, which at an early period of the investigation loomed up occasionally, as if they might have some importance, may be dismissed from our minds; for, whether the claims made in that respect are well founded or not, no authority has been vested in this tribunal to make an award based upon any such grounds. That which you have been empowered to decide is the question, to what extent the citizens of the United States are gainers by having, for the term of twelve years, liberty to take fish on the shores and coasts of Her Majesty's dominions without being restricted to any distance from the land. It is the right of inshore fishing. In other words, the removal of a restriction by which our fishermen were forbidden to come within three miles of the shore for fishing purposes; and that is all. No rights to do anything upon the land are conferred upon the citizens of the United States, under this treaty, with the single exception of the right to dry nets and cure fish on the shores of the Magdalen Islands, if we did not possess that before; no right to land for the purpose of seining from the shore; no right to the "strand fishery," as it has been called; no right to do anything except, water-borne on our vessels, to go within the limits which had been previously forbidden.

When I commenced the investigation of this question I supposed that it was probable that an important question of international law would turn out to be involved in it, relative, of course, to the so-called headland question, which has been the subject of so much discussion between the two governments for a long series of years; but the evidence that has been introduced renders this question not of the slightest importance, and inasmuch as it is a question which you are not empowered, except incidentally, to decide, a question eminently proper to be passed upon between the governments directly, I presume you will rejoice with me in finding that it is not practically before us, and that we need not trouble ourselves concerning it. If it had appeared in this case that there was fishing carried on to any appreciable extent within the large bays, more than six miles wide at the headlands, and at a distance of more than three miles from the contour of the shores of those bays, the United States would have contended that their citizens, in common with all the rest of mankind, were entitled to fish in such great

bodies of water as long as they kept themselves more than three miles from the shore. In short, they would have contended, as it has been contended, in the brief filed in this case, that where the bays are more than six miles in width from headland to headland, they are to be treated in this respect, for fishing purposes, as parts of the open sea; but the evidence, as I said before, has eliminated all that matter from the inquiry. The only bodies of water as to which any such question can arise are, in the first place, the Bay of Fundy. Now, the right of American fishermen to enter and fish in that bay was decided by arbitration in the case of the schooner *Washington*, and Her Majesty's Government have uniformly acquiesced in that decision. So, as to that body of water, the rights of the citizens of the United States must be regarded as *res adjudicata*. In addition, however, it turns out that within the body of the Bay of Fundy there has not been any fishing more than three miles from the shore for a period of many years. One of the British witnesses said that it was forty years since the mackerel fishery ceased in the Bay of Fundy. At all events, there is no evidence in this case of fishing of any description in the body of the Bay of Fundy more than three miles from the shore, and this fact, in addition to the decision in the *Washington* case, disposes of that.

The next body of water is the Bay of Miramichi; as to which it will turn out by an inspection of the map on which the Commissioners, appointed under the Reciprocity Treaty, marked out the lines reserved from free fishing, on the ground that they were mouths of rivers, that the mouth of the river Miramichi comes almost down to the headlands of the bay. You will remember that the report of the Commission on the Reciprocity Treaty is referred to in the Treaty of Washington, and that the same places excluded by their decision remain excluded now. What is left? The narrow space below the point marked out as the mouth of the river Miramichi, and within the headlands of the bay, is so small that there can be no fishing there of any consequence, and no evidence of any fishing there at all has been introduced. So far as the Bay of Miramichi goes, therefore, I cannot see that the headland question need trouble you at all.

Then comes the Bay of Chaleurs, and in the Bay of Chaleurs whatever fishing has been found to exist seems to have been within three miles of the shores of the bay, in the body of the Bay of Chaleurs. I am not aware of any evidence of fishing, and it is very curious that this Bay of Chaleurs, about which there has been so much controversy heretofore, can be so summarily dismissed from the present investigation. I suppose that a great deal of factitious importance has been given to the Bay of Chaleurs from the custom among fishermen, and almost universal a generation ago, of which we have heard so much, to speak of the whole of the Gulf of St. Lawrence by that term. Over and over again, and particularly among the older witnesses, we have noticed that when they spoke of going to the Gulf of St. Lawrence, they spoke of it by the term "Bay of Chaleurs," but in the Bay of Chaleurs proper, in the body of the bay, I cannot find any evidence of any fishing at all. I think, therefore, that the Bay of Chaleurs may be dismissed from our consideration.

There are two or three other bodies of water as to which a possible theoretical question may be raised, but their names have not been introduced into the testimony on this occasion from first to last. The headland question, therefore, gentlemen, I believe may be dismissed as, for the purpose of this inquiry, wholly unimportant, and although I am not authorized to speak for my friend, the British Agent, and to say that

he concurs with me, yet I shall be very much surprised if I find any different views from those that I have expressed taken on the other side. If in argument other views should be brought forward, or if it should seem to your honors, in considering the subject, that the question has an importance which it has not in my view, then I can only refer you to the brief that has been filed, and insist upon the principles which the United States have heretofore maintained on that subject. For the present, I congratulate you, as I do myself, that no grave and vexed question of international law need trouble you in coming to a conclusion.

I think it is necessary to go somewhat, yet briefly, into the historical aspects of the fishery question, in order to see whether that which has been the subject of diplomatic controversy and of public feeling in the past is really the same thing which we have under discussion to-day. The question has been asked, and asked with some earnestness, by my friends on the other side, "If the inshore fisheries have the little importance which you say they have, why do your fishermen go to the Gulf of St. Lawrence at all?" And again it has been asked, "If the inshore fisheries are of such insignificant consequence, why is it that the fishermen and people of the United States have always manifested such a feverish anxiety on the subject?" Those questions deserve an answer, and unless an answer can be made, you undoubtedly will feel that there must be some unseen importance in this question, or there would not have been all the trouble with reference to it heretofore. Why do the fishermen of the United States come to the Gulf of St. Lawrence at all? Why should they not come here? What men on the face of the earth have a better right to plow with their keels the waters of the Gulf of St. Lawrence than the descendants of the fishermen of New England, to whose energy and bravery, a century and a quarter ago, it is chiefly owing that there is any Nova Scotia to day under the British flag? I am not going to dwell upon the history of the subject. It is well known that it was New England that saved to the Crown of England these maritime provinces; that to New England fishermen is due the fact that the flag of Great Britain flies on the citadel, and not the flag of France, to-day.

Early in the diplomatic history of this case we find that the Treaty of Paris in 1763 excluded French fishermen three leagues from the coast belonging to Great Britain in the Gulf of St. Lawrence and fifteen leagues from the island of Cape Breton. We find that the treaty with Spain in the same year contained a relinquishment of all Spanish fishing rights in the neighborhood of Newfoundland. The Crown of Spain expressly desisted from all pretensions to the right of fishing in the neighborhood of Newfoundland. Those are the two treaties of 1763—the Treaty of Paris with France and the treaty with Spain. Obviously, at that time, Great Britain claimed for herself exclusive sovereignty over the whole Gulf of St. Lawrence and over a large part of the adjacent seas. By the Treaty of Versailles, in 1783, substantially the same provisions of exclusion were made with reference to the French fishermen. Now, in that broad claim of jurisdiction over the adjacent seas, in the right asserted and maintained to have British subjects fish there exclusively, the fishermen of New England, as British subjects, shared. Undoubtedly, the pretensions that were yielded to by those treaties have long since disappeared. Nobody believes now that Great Britain has any exclusive jurisdiction over the Gulf of St. Lawrence or the Banks of Newfoundland, but at the time when the United States asserted their independence and when the treaty was formed between

the United States and Great Britain, such were the claims of England, and those claims had been acquiesced in by France and by Spain. That explains the reason why it was that the elder Adams said he would rather cut off his right hand than give up the fisheries at the time the treaty was formed, in 1783, and that explains the reason why, when his son, John Quincy Adams, was one of the Commissioners who negotiated the Treaty of Ghent, at the end of the war of 1812, he insisted so strenuously that nothing should be done to give away the rights of the citizens of the United States in these ocean fisheries. Those are the fisheries which existed in that day, and those alone. The mackerel fishery was unknown. It was the cod-fishery and the whale-fishery that called forth the eulogy of Burke over a hundred years ago. It was the cod-fishery and the whale-fishery for which the first and second Adams so strenuously contended; and, inasmuch as it was found impossible in the treaty at the end of the war of 1812 to come to any adjustment of the fishery question, all mention of it was omitted in the treaty. The treaty was made leaving each party to assert his claims at some future time. And so it stood; Great Britain having given notice that she did not intend to renew the rights and privileges conceded to the United States in the Treaty of 1783, and the United States giving notice that they regarded the privileges of the Treaty of 1783 as of a permanent character, and not terminated by the war of 1812; but no conclusion was arrived at between the parties. What followed? The best account of the controversy to be found is in a book called "The Fisheries and the Mississippi," which contains John Quincy Adams's letters on the subject of the Treaty of Ghent and the convention of 1818.

Mr. Adams in that book says that the year after peace was declared, British cruisers warned all American fishing-vessels not to approach within sixty miles from the coast of Newfoundland, and that it was in consequence of this that the negotiations were begun which led to the Convention of 1818; and the Convention of 1818, in the opinion of Mr. Adams, conceded to the United States all that they desired. He believed and asserted that Great Britain had claimed, and intended to claim, exclusive jurisdiction over the Gulf of Saint Lawrence and over the Banks of Newfoundland, and he considered and stated that the Treaty of 1818, in setting at rest forever those pretensions, obtained for the United States substantially what they desired. A passage is quoted in the reply of Her Majesty's Government to the United States Answer, from this book, in which Mr. Adams says: "The Newfoundland, Nova Scotia, Gulf of Saint Lawrence and Labrador fisheries, are in nature and in consideration both of their value and of the right to share in them *one* fishery. To be cut off from the enjoyment of that right would be to the people of Massachusetts similar in kind and comparable in degree with an interdict to the people of Georgia and Louisiana to cultivate cotton or sugar. To be cut off even from that portion of it which was within the exclusive British jurisdiction in the *strictest sense* within the Gulf of Saint Lawrence and on the coast of Labrador would have been like an interdict upon the people of Georgia or Louisiana to cultivate cotton or sugar in three-fourths of those respective States." But he goes on to speak of the warning off of American vessels sixty miles from Newfoundland, and then says: "It was this incident which led to the negotiations which terminated in the Convention of the 20th of October, 1818. In that instrument, the United States *renounced forever* that part of the fishing liberties which they had enjoyed or claimed in certain parts of the exclusive jurisdiction of the British Provinces, and within *three marine miles* of the shores. *This privilege, without being of*

much use to our fishermen, had been found very inconvenient to the British; and in return, we have acquired an enlarged liberty, both of fishing and drying fish, within other parts of the British jurisdiction forever."

Fishing for mackerel in ten fathoms of water off the bight of Prince Edward Island was not the thing then taken into consideration. There was no mackerel fishery till many years after. This controversy was caused by a claim on the one hand and a resistance on the other with reference to the ocean fisheries, to the cod fishery, the whale fishery, the deep-sea fishery, three leagues, fifteen leagues, sixty miles from the shore; and after the Convention of 1818 had been formed, if it had been construed as the British Government construe it to-day, there would have been no more controversy on the subject. The controversy that arose after the Convention of 1818 sprang from the unwarrantable and extravagant pretensions, not so much of Her Majesty's home government, as of the colonial authorities. In order to understand the importance that has been attributed to this subject, it is indispensably necessary that you should know what was claimed to be the interpretation of the Convention of 1818 down to a very recent day. The provincial authorities claimed, in the first place, to exclude United States vessels from navigating the Gut of Canso. Nobody makes that claim now. In the second place, they claimed the right to exclude them from fishing anywhere in the Bay of Fundy. That claim was insisted upon until, on arbitration, it was decided against Her Majesty's Government. Not only was the headland doctrine asserted as to the great bays, but, under its guise, the provincial authorities claimed the right to draw a straight line from East Point to North Cape of Prince Edward Island, and make the exclusion three miles from that point. I have had marked on the map annexed to the British Case two or three of the principal lines of exclusion as they were then insisted upon, that you may know what it was that our people regarded as important. The claim to treat East Point and North Cape as headlands, and to exclude us a distance of three miles from a line drawn between them, is a notion that has not departed from the popular mind to the present day.

The affidavits from Prince Edward Island were drawn upon the theory that that is the rule, and in two or three of them I have found it expressly stated, "that all the mackerel were caught within the three-mile line; that is to say, within a line three miles from a straight line drawn from East Point to North Cape." Now, those affidavits are all in answer to one set of questions, they are all upon one model, and it is quite obvious that they were all of them colored by that view of the three-mile limit, as two of them expressly say that they were. At all events, that was the claim that was made down to a very recent period. The claim also was made to exclude United States fishermen from Northumberland Strait. In the case of the *Argus*, seized by British cruisers, the ground of seizure was, that a line was to be drawn from Cape North to the northern line of Cow Bay in Cape Breton. It is marked there in red on the map. The evidence of that claim, which was the basis of the seizure of the *Argus*, is to be found in the correspondence between Mr. Everett and Lord Aberdeen on the subject. See Mr. Everett's letter to Lord Aberdeen, quoted from in the United States brief, on page 21. They likewise claimed to draw a line from Margaree to Cape St. George. You will find that down there. Those claims were not merely made on the quarter deck, but they were made, some of them, in diplomatic correspondence, some of them in resolutions of the Nova Scotia legislature. They were made, and they were insisted upon, and understanding this, I think you will be prepared to understand why it was that exclusion

from such limits was regarded as important to our fishermen. You will remember that one of our oldest witnesses, Ezra Turner, testified that the captain of the cruiser "told me what his orders were from Halifax, and he showed me his marks on the chart. I well recollect three marks. One was from Margaree to Cape St. George, and then a straight line from East Point to Cape St. George, and then another straight line from East Point to North Cape. The captain said, 'If you come within three miles of these lines, fishing, or attempting to fish, I will consider you a prize.'" And a committee of the Nova Scotia legislature, as late as 1851, in their report, say: "The American citizens, under the treaty, have no right, for the purposes of the fishery, to enter any part of the Bay of St. George, lying between the headlands formed by Cape George on the one side and Port Hood Island on the other."

Such were the claims made, and how were those claims enforced? They were enforced by the repeated seizure of our vessels, their detention until the fishing season was over, and then their release. It appears by the returns that have been made in how many instances our fishing-vessels were released without a trial after they had been detained until their voyages were ruined, and, as our skippers said in their testimony, it made no difference whether the seizure was lawful or unlawful, the voyage was spoilt, and the value of the vessel almost entirely destroyed. There were repeated instances of which you have testimony of cruisers levying black-mail upon skippers, taking a portion of their fish by way of tribute from them, and letting them go on their way.

Mr. THOMSON. Instead of seizing the whole?

Mr. FOSTER. Yes; instead of seizing the whole. No doubt the poor and ignorant skippers were thankful to escape from the lion's jaws with with so little loss as that. Let me give an instance: There is a letter from Mr. Forsyth, the United States Secretary of State, to Mr. Fox, the British minister at Washington, dated the 24th of July, 1859, in which Mr. Forsyth requests the good offices of Her Majesty's minister at Washington with the authorities at Halifax, to secure to a fisherman, too poor to contend in the admiralty court, the restoration of 10 barrels of herrings taken from him by the officer who had seized his vessel and withheld the herring after the vessel itself was released.

Well, what were the laws enacted to enforce these pretensions? A Nova Scotia statute of 1836, after providing for the forfeiture of any vessel found fishing, or preparing to fish, or to have been fishing within three miles of the coasts, bays, creeks, or harbors, and providing that if the master, or person in command, should not truly answer the questions put to him in examination by the boarding officer, he should forfeit the sum of £100, goes on to provide that if any goods shipped on the vessel were seized for any cause of forfeiture under this act, and any dispute arises whether they have been lawfully seized, the burden of proof to show the illegality of the seizure shall be on the owner or claimant of the goods, ship, or vessel, and not on the officer or person who shall seize and stop the same. The burden of proof to show that the seizure was unlawful was on the man whose schooner had been brought to by the guns of the cutter. He was to be taken into a foreign port, and there required affirmatively to make out that his vessel and its contents were not liable to forfeiture. If he attempted any defense, he was not permitted to do so until he had given sufficient security in the sum of £50 for the costs. He must commence no suit until he had given one calendar month's notice in writing of his intention to do so, in order that the seizing officer might make amends if he chose; and he must bring his suit within three months after the cause of action accrued, and if he

failed in the suit, treble costs were to be awarded against him; while, if he succeeded in the suit, and the presiding judge certified that there was probable cause for the seizure, he was to be entitled to no costs, and the officer making the seizure was not to be liable to any action. That act, only very slightly modified, but with most of its offensive provisions still retained, was found on the statutes of Nova Scotia as late as the year 1868, and I am not aware that it has been repealed to-day. The construction put upon it in this province was, that a man who came into a British harbor to buy bait with which to catch fish in the deep sea, was guilty of "preparing to fish," and that it was an offense under the act to prepare within British territorial waters to carry on a deep-sea fishery.

Such, gentlemen, was the condition of things which led the fishermen of the United States to attribute so much importance to the three-mile restriction. We know to-day that all this has passed away. We know that such pretensions are as unlikely ever to be repeated as they are sure never again to be submitted to. And why do I refer to them? Not, certainly, to revive any roots of bitterness; not, certainly, to complain of anything so long gone by; but because it is absolutely indispensable for you to understand the posture of this question historically, in order that you may be aware how different the question we are trying to-day is from the question which has had such importance heretofore.

If the three-mile limit off the bend of Prince Edward Island, and down by Margaree, where our fishermen sometimes fish a week or two in the autumn (and those are the two points to which almost all the evidence of inshore fishing in this case relates)—if the three-mile limit had been marked out by a line of buoys in those places, and our people could have fished where they had a right to, under the law of nations and the terms of the Convention of 1818, nobody would have heard any complaint. Certainly it is most unjust, after a question has had such a history as this—after the two nations have been brought to the very verge of war with each other in consequence of disputes based upon such claims as I have referred to—certainly, now that those claims are abandoned, it is most unjust to say to us, "Because you complained of these things, therefore you must have thought the right to catch mackerel in ten or fifteen fathoms of water, within three miles of the bight of the island, was of great national importance." We are not prepared to enter fairly into a discussion of the present question until it is perceived how different it is from the one to which I have been alluding. Of course our fishermen were alarmed and excited, and indignant, when the things were done to which I have referred. Of course it was true that if such claims were to be maintained they must abandon fishing in the Gulf of St. Lawrence altogether. And not only did they feel that there was an attempt, unjustly and unlawfully, to drive them out of a valuable fishery which had belonged to them and their forefathers ever since vessels came here at all, but there was also, with reference to it, a sense of wrong and outrage, and the fishermen of New England, like the rest of the people of New England, although long suffering and slow to wrath, have ever been found to be a race "who know their rights, and, knowing, dare maintain." But when these claims are abandoned, as they have been now, there remains simply the question, what is the value of fishing within three miles of the shore of the British territories? And this brings me to some of the immediate questions which we have to discuss.

In the first place, I suppose I may as well take up the case of Newfoundland. The case of Newfoundland, as I understand it, is almost

entirely eliminated from this controversy by the decision which was made on the 6th of September. The claim, as presented in Her Majesty's Case, is not one of compensation for fishing within the territorial waters of Newfoundland, but it is one of enjoying the privileges of commercial intercourse with the people of that island. Of territorial fishing in Newfoundland waters, there is hardly any evidence to be found since the first day of July, 1873, when the fishery clauses of the Treaty of Washington took effect, with one exception, that I will allude to hereafter. There is certainly no cod-fishing done by our people in the territorial waters of Newfoundland; none has been proved, and there is no probability that there ever will be during the period of the treaty or afterward. The American cod fishery is everywhere deep sea fishing. There is a little evidence of two localities in which a few halibut are said to have been taken in Newfoundland waters—one near Hermitage Bay, and one near Fortune Bay. But the same evidence that shows that it once existed shows that it had been exhausted and abandoned before the Treaty of Washington was made. Judge Bennet testified that—

The halibut-fishing on the Newfoundland coast is a very limited one, so far as I am aware. It is limited to the waters between Brunet Island in Fortune Bay and Pass Island in Hermitage Bay. It is conducted close inshore, and was a very prolific fishery for a number of years. Our local fishermen pursued it with hook and line. I think about eight years ago the Americans visited that place for the purpose of fishing, and they fished it very thoroughly. They fished early in the season, in the month of April, when halibut was in great demand in New York market. They carried them there fresh in ice, and I know they have pursued that fishery from that time to within the last few years. I believe they have about exhausted it now.

Another witness testified that some years ago the halibut fishery was pursued in that vicinity, but he went on to say that—

American fishermen do not now fish for halibut about Pass Island as they formerly did, because I believe that that fishery has been exhausted by the Americans. I know of no United States fishing-vessels fishing within three miles of the shore, except at and about Pass Island, as already stated.—(Affidavit of Philip Hubert, p. 54, British Affidavits.)

John Evans, p. 52, British Affidavits, says:

The halibut fishery, followed by the United States fishing-vessels about Pass Island, has been abandoned during late years. I have not heard of American fishing-vessels trying to catch fish on the Newfoundland inshore-fishery.

There has been a little evidence that occasionally, when our vessels go into harbors to purchase bait at night, some of the men will jig a few squid, when they are waiting to obtain bait.

All the evidence shows that they go there not to fish for bait, but to buy it. It shows also that when they are there for that purpose, the crews of the vessels are so much occupied in taking on board and stowing away the fish bought for bait that they have no time to engage much in fishing; but one or two witnesses have spoken of a little jigging for squid by one or two men when unoccupied at night. As to the rest, all the fishing in the territorial waters of Newfoundland is done by the inhabitants themselves.

The frozen-herring trade, which was the ground of compensation chiefly relied upon in the Newfoundland case, has been completely proved to be a commercial transaction. The concurrent testimony of the witnesses on both sides is, that American fishermen go there with money, they do not go there provided with the appliances for fishing, but with money and with goods. They go there to purchase and to trade, and when they leave Gloucester, they take out a permit to touch and trade, that they may have the privileges of trading-vessels. Perhaps it may be said that the arrangement under which this bait is

taken is substantially a fishing for it. I have heard that suggestion hinted at in the course of our discussions, but plainly, it seems to me, it cannot be sound. We pay for herring by the barrel, for squid and caplin by the hundred, and the inhabitants of the island will go out to sea as far as to the French Islands, there to meet American schooners, and to induce them to come to their particular localities that they may be the ones to catch the bait for them. It is true that the British Case expresses the apprehension that the frozen-herring trade may be lost to the inhabitants of Newfoundland in consequence of the provisions of the treaty. It is said that "it is not at all probable that, possessing the right to take the herring and caplin for themselves on all parts of the Newfoundland coast, the United States fishermen will continue to purchase bait as heretofore, and they will thus prevent the local fishermen, especially those of Fortune Bay, from engaging in a very lucrative employment, which formerly occupied them during a portion of the winter season, for the supply of the United States market." One of the British witnesses, Joseph Tierney, whose testimony is on page 371, in speaking of this matter of getting bait, says, in reply to the question, "How do you get that bait?" "Buy it from persons that go and catch it and sell it for so much a barrel. The American fishermen are not allowed to catch their own bait at all. Of course, they may jig their own squid around the vessel." And in reply to my question, "What would be done if they tried to catch bait?" the answer is, "They are pretty rough customers. I don't know what they would do." So it appears that American fishermen not only do not catch bait, but are not allowed to catch it. They buy the bait, and that, to my mind, is the end of the question. So far as the herring trade goes, we could not, if we were disposed to, carry it on successfully under the provisions of the treaty, for this herring trade is substantially a seining from the shore—a strand fishing, as it is called—and we have no right anywhere conferred by this treaty to go ashore and seine herring any more than we have to establish fish-traps. I remember brother Thomson and Professor Baird were at issue on the question whether we had a right to do this. Brother Thomson was clearly right and Professor Baird was mistaken. We have not acquired any right under the treaty to go ashore for any purpose anywhere on the British territories except to dry nets and cure fish. I do not think that I ought to spend more time over the case of Newfoundland than this, except to call your attention to the circumstance that, in return for these few squid jigged at night, the islanders obtain an annual remission of duties averaging upwards of \$50,000 a year.

We have been kindly furnished, in connection with the British affidavits upon page 128, Appendix A, with a statement showing the duties remitted upon exports from Newfoundland to the United States since the Treaty of Washington, and their annual average is made out to be \$50,940.45. I submit to the Commission whether we do not pay, upon any view of political economy, a thousand fold for all the squid that our people jig after dark.

Let it not, however, for a moment be supposed that because I took up the case of Newfoundland for convenience' sake, as it is presented separately, that I regard it as a distinct part of the case. The United States has made no treaty with the Island of Newfoundland, which has not yet hoisted the flag of the "Lone Star." When she does, perhaps we shall be happy to enter into treaty relations with her; but we know at present only Her Majesty's Government. We are dealing with the whole

aggregate of concessions, from the one side to the other, and Newfoundland comes in with the rest.

Leaving, then, the Island of Newfoundland, I come to the question of the value to the citizens of the United States of the concessions as to inshore fisheries in the territorial waters of the Dominion of Canada—that is, within three miles of the shore—for the five annual seasons past, and for seven years to come. In the first place, there is the right conceded to our fishermen to land in order to cure fish and dry nets—to land on unoccupied places, where they do not interfere with private property, nor with British fishermen exercising the same rights. In one of the oldest law reports, Popham's, an ancient sage of the law, Mr. Justice Doddridge remarks: "Fishermen, by the law of nations, may dry their nets on the land of any man." Without asserting that as a correct rule of law, I think I may safely assert that it has been the practice permitted under the comity of nations from the beginning of human history, and that no nation or people, no kingdom or country, has ever excluded fishermen from landing on barren and unoccupied shores and rocks to dry their nets and cure their fish. If it was proved that the fishermen of the United States did use privileges of this kind, under the provisions of the Treaty of Washington, to a greater extent than before, I hardly think that you would be able to find a current coin of the realm sufficiently small in which to estimate compensation for such a concession. But, in point of fact, the thing is not done; there is no evidence that it is done. On the contrary, the evidence is that this practice belonged to the primitive usages of a by-gone generation. Seventy, sixty, perhaps fifty years ago, when a little fishing vessel left Massachusetts Bay, it would sail to Newfoundland, and after catching a few fish, the skipper would moor his craft near the shore, land in a boat, and dry the fish on the rocks; and when he had collected a fare of fish, and filled his vessel, he would either return back home, or quite as frequently would sail on a commercial voyage to some foreign country, where he would dispose of the fish and take in a return cargo. But nothing of that sort has happened within the memory of any living man. It is something wholly disused, of no value whatever. And it must not be said that under this concession we acquire any right to fish from the shore, to haul nets from the shore, or to fish from rocks. Obviously, we do not. I agree entirely with the view of my brother Thomson, as manifested in his conversation with Professor Baird on that subject.

We come, then, to the inshore fishing. What is that? In the first place, there has been some attempt to show inshore halibut-fishing in the neighborhood of Cape Sable. It is very slight. It is contradicted by all our witnesses. No American fisherman can be found who has ever known of any halibut-fishing within three miles of the shore in that vicinity; and our fishermen all say that it is impossible that there should be halibut caught in any considerable quantities in any place where the waters are so shallow. There is also some evidence that up in the Gulf of St. Lawrence there was once a small local halibut fishery, but the same evidence that speaks of its existence there speaks of its discontinuance years ago. The last instance of a vessel going there to fish for halibut that has been made known to us is the one that Mr. Sylvanus Smith testifies about, where a vessel of his strayed up into the gulf, was captured, and was released, prior to the Treaty of Washington. As to the inshore halibut fishery, there has been no name of a vessel, except in one single instance, when a witness did give the name of the *Sarah C. Pyle* as a vessel that had fished for halibut in the vicinity of Cape Sable. We have an affidavit from the captain of that schooner,

Benjamin Swim, saying that he did not take any fish within many miles of Cape Sable. He says he has been engaged in cod-fishing since April of this year, and "has landed 150,000 pounds of halibut, and caught them all, both codfish and halibut, on Western Banks. The nearest to the shore that I have caught fish of any kind this year is, at least, 40 miles."—(Affidavit No. 242.)

So much for the inshore halibut fishery. I will, however, before leaving it, refer to the statement of one British witness, Thomas R. Pattilo, who testified that occasionally halibut may be caught inshore, as a boy may catch a codfish off the rocks; but, pursued as a business, halibut are caught in the sea, in deep water. "How deep do you say?" "The fishery is most successfully prosecuted in about 90 fathoms of water, and, later in the season, in as much as 150 fathoms."

So much for the inshore halibut fishery; and that brings me to the inshore cod fishery, as to which I am reminded of a chapter in an old history of Ireland that was entitled "On Snakes in Ireland," and the whole chapter was "There are no snakes in Ireland." So there is no inshore cod fishery pursued as a business by United States vessels anywhere. It is, like halibut-fishing, exclusively a deep-sea fishing. They caught a whale the other day in the harbor of Charlottetown, but I do not suppose our friends expect you to assess in this award against the United States any particular sum for the inshore whale fishery. There is no cod fishery or halibut fishery inshore, pursued by our vessels, any more than there is inshore whale fishery. We know and our witnesses know where our vessels go. If they go near the British shores at all they go to buy bait, and leave their money in payment for the bait. Will it be said that the cod fishery is indirectly to be paid for, because fresh bait must be used, and the cod fishery cannot profitably be pursued without fresh bait; and because we are hereafter to be deprived of the right to buy bait by laws expected to be passed, and then shall have to stop and catch it, so that by and by, when some new statutes have been enacted, and we have been cut off from commercial privileges, we may be forced to catch bait for cod-fishing in British territorial waters? I think it will be time enough to meet that question when it arises. Any attempt to cut us off from the commercial privileges that are allowed in times of peace by the comity of civilized nations to all at peace with them, would of course be adjusted between the two governments in the spirit that becomes two imperial and Christian powers. I do not think that, looking forward to some unknown time when some unknown law will be passed, we need anticipate that we are to be cut off from the privilege of buying bait, and therefore you should award compensation against us for the bait which we may at that time find occasion ourselves to catch. But if it is worth while to spend a single moment upon that, how thoroughly it has been disposed of by the evidence, which shows that this practice of going from the fishing grounds on the Banks into harbors to purchase bait is one attended with great loss of time, and with other incidental disadvantages, so that the owners of the vessels much prefer to have their fishermen stay on the Banks and use salt bait, and whatever else they can get there. Saint Pierre and Miquelon are free ports; commercial intercourse is permitted there; bait can be bought there; and, as the British witnesses have told us, the traffic for bait between Newfoundland and the French islands is so great, and such a full supply of bait is brought to the French islands, more than there is a demand for, that it is sometimes thrown overboard in quantities that almost fill up the harbor. That was the statement of one of the witnesses. I do not

think, therefore, that I need spend more time, either upon the cod-fishery, or the question of buying bait or procuring bait for cod-fishing.

What shall I say of the United States herring fishery, alleged to exist at Grand Manan and its vicinity? Three British witnesses testify to an annual catch of one million, or one and a half million dollars' worth by United States fishermen in that vicinity, all caught inshore. But these witnesses do not name a single vessel, or captain, or give the name of any place from which such vessels come, except to speak in general terms of the Gloucester fleet. These witnesses are McLean, McLeod, and McLaughlin. The fish alleged to be taken are chiefly herring. I shall not stop to read their evidence, or comment upon it in detail. They are contradicted by several witnesses, and by several depositions filed in the case, which you will find in the supplemental depositions lately printed; all of whom state, what we believe to be clearly true, that the herring trade by the United States vessels in the vicinity of Grand Manan is purely a commercial transaction; that our fishermen cannot afford the time to catch herring; that their crews are too large and their vessels too expensive to engage in catching so poor a fish as herring; that it is better for them to buy and pay for them, and that so they uniformly do. The members of the Gloucester firms who own and send out these vessels tell you that they go without nets, without the appliances to catch herring at all, but with large sums of money; they bring back the herring, and they leave the money behind them.

This question seems to me to be disposed of by the report of the Commissioner on the New Brunswick Fisheries for 1876.

Mr. Venning, the inspector of fisheries for New Brunswick, quotes in his report on Charlotte County (pp. 266 and 267), from Overseer Cunningham, of the Inner Bay. Some attempt was made to show that Overseer Cunningham, although the official appointed for the purpose, did not know much about it; but it will be observed that his statements, as well as those of Overseer Best (whose evidence is next quoted), are affirmed by Mr. Venning, the inspector of fisheries for New Brunswick, and inserted in his report under his sanction; and I think that with the minister of marine and fisheries, himself from New Brunswick, at the head of the department, erroneous statements on a subject relating to the fisheries of his own province were not likely to creep into official documents and remain there unobjected to. I think we must assume that these official statements are truer and more reliable than the accounts that come from witnesses. Overseer Cunningham says:

The winter herring fishery, I am sorry to say, shows a decrease from the yield of last year. This, I believe, is owing to the large quantity of nets, in fact miles of them, being set by United States fishermen all the way from Grand Manan to Lepreau, and far out in the bay, by the Wolves, sunk from 20 to 25 fathoms, which kept the fish from coming into this bay. In this view I am borne out by all the fishermen with whom I have conversed on the subject. Our fishermen who own vessels have now to go a distance of six to eight miles off shore before they can catch any. The poorer class of fishermen, who have nothing but small boats, made but a poor catch. However, during the winter months, there were caught and sold in a frozen state to United States vessels 1,200 barrels, at from \$4 to \$5 per barrel. The price being somewhat better than last year, helped to make up the deficiency in their catch.

Then he goes on to speak of the injurious effect of throwing over gurry, which, he says, is practiced by provincial fishermen as well as American, and says that, "as they are fishing far off shore a week at a time, this destructive practice can be followed with impunity and without detection." And Overseer Best speaks of the falling off in line fishing, but says that the yield of herring has exceeded that of the previous year, disagreeing with his friend, Overseer Cunningham. He

attributes the deficiency in line-fishing to the use of trawls. He goes on to say, "The catch was made chiefly in deep water this year, as far out as five to seven miles off the coast, and no line-fish have been taken within two miles, except haddock." He says:

The winter fishing was principally done in deep water. As rough weather prevailed most of the time, the fishermen found it very difficult to take care of their nets, a great many of which are lost. A large number of American vessels now frequent our coasts to engage in this fishery, and pay but little attention to our laws, which prohibit Sunday fishing and throwing over gurry. This I am powerless to prevent over a stretch of 20 miles of coast, on which from 60 to 100 vessels are engaged. A suitable vessel is necessary for this work, and she should cruise around among the fishing-grounds and see that the laws are respected by those who are participating in the benefits of our fisheries.

Of course, it is difficult to prove a negative; but ought not the British Agent to be required, upon a subject of such magnitude as this, to produce some more satisfactory evidence? If a large fleet of American vessels are year by year catching herring within three miles of land, among an equal body of British fishermen, within a limited space near Grand Manan, and if they are taking from a million to a million and a half dollars' worth a year, is it not possible for our friends the minister of marine and fisheries and the learned counsel both from New Brunswick to furnish the names of just one or two vessels, or one or two captains among the great number that are so engaged? A million to a million and a half dollars' worth is the estimate that they put upon the fishery. How many herring do you suppose it takes to come to a million or a million and a half dollars? It takes more than all the herring that are imported into the United States, by the statistics. Just in that little vicinity they say that a greater amount of such fish are taken than are imported into the United States. Now, if an operation of that enormous magnitude is going on, it does seem to me that somebody would know something more definite about it than has appeared in this evidence. Certainly there has been earnest zeal and the most indefatigable industry in the preparation of the British Case. Nobody doubts that. There has been every facility to procure evidence; and are we not entitled to require at the hands of Her Majesty's Government something that is more definite and tangible than has appeared on this subject? I have made all the inquiry in my power, and I cannot find out what the vessels are, who their captains are, from what ports they come, or to what markets they return. We know very well what the Gloucester herring-fleet is. It is a fleet that goes to buy herring; that buys it at Grand Manan; that buys it at the Magdalen Islands; that buys it in Newfoundland. But of any fleet that fishes for herring in the territorial waters of New Brunswick, after the utmost inquiry we can make, we remain totally ignorant.

There is another view of this subject which ought, it seems to me, to be decisive. Everybody admits that herring is one of the cheapest and poorest of fish, and that the former duty of a dollar a barrel, and five cents a box on smoked herring, would be absolutely prohibitory in the markets of the United States. Now, how much must these New Brunswick fishermen gain if they have as large a fishery as we have, and we have a fishery of a million and a half dollars in that vicinity? That is their statement; the British fishery is about equal to the American; the American is very near to one and a half million dollars a year in that vicinity; the British-caught fish go to the United States markets almost exclusively—I think one witness did say two-thirds; everybody else has spoken as if the herring-market was in the United States almost altogether. How many barrels of herring does it take to come to a million dollars?

We will let the other half million be supposed to consist of smoked herring in boxes. How many barrels of herring does it take? Why, it takes three or four hundred thousand. The herring sell for from two to four dollars a barrel. It takes 250,000, 300,000, or 400,000 barrels of herring, and a duty of a dollar is remitted upon each barrel, a duty which would exclude them from our market if it were reimposed. Is not that a sufficient compensation? If you believe that our people catch herring there to any considerable extent, is not that market from which these people derive, according to their own showing, so large sums of money, an equivalent? Remember, they say we catch a million to a million and a half dollars' worth; they say they catch as many; they say it nearly all goes to our market; the duty saved is a dollar a barrel; and, according to their own figures, they must be reaping a golden harvest. Happy fisherman of New Brunswick! By the statistics they earn four or five times as much as the fishermen of Prince Edward Island, and the witnesses say that they earn really two or three times as much as the statistics show. They are receiving from a million to a million and a half dollars for fish sold chiefly in the markets of the United States, and the saving in duty is several hundred thousand dollars. It is true that we cannot find imported into the United States any such quantity of herring; still that is the account that they give of it.

This brings me, gentlemen, to the question of the inshore mackerel fishery: that portion of the Case which seems to me, upon the evidence, to be the principal part, I might almost say the only part, requiring to be discussed. Your jurisdiction is to ascertain the value of those fisheries for a period of twelve years from July 1, 1873, to July 1, 1885.

Of those twelve years, five have already elapsed; one fishing-year has passed since the session of this Commission began. Inasmuch as the twelve years will terminate before the beginning of the fishing-year in the Gulf of St. Lawrence for 1885, it is precisely correct to say, that five years have elapsed and seven remain. It is of no consequence how valuable these fisheries have been at periods antecedent to the treaty, nor how valuable or valueless you may think they are likely to become after the treaty shall have expired. The twelve years' space of time limits your jurisdiction, and five-twelfths of that time is to be judged of by the testimony as to the past. The results of the five years are before you. As to the seven remaining years, the burden of proof is upon Her Majesty's Government to show what benefit the citizens of the United States may reasonably be expected to derive during that time from these fisheries. It will be for you to estimate the future by the past as well as you may be able.

This is purely a business question. Although it arises between two great governments, it is to be decided upon the same principles of evidence as if it were a claim between two men, as if it was a question how much each skipper that enters the Gulf of St. Lawrence to fish for mackerel ought to pay out of his own pocket. We are engaged in what the London Times has truly called a "great international lawsuit," and we are to be governed by the same rules of evidence that apply in all judicial tribunals, not, of course, by the technicalities of any particular system of law, but by those great general principles which prevail wherever, among civilized men, justice is administered. He who makes a claim is to prove his claim and the amount of it. This is not a question to be decided upon diplomatic considerations; it is a question of proof. Money is to be paid for value received, and he who claims the money is to show that the value has been received or will be. If there are extravagant expectations on the one side, that is no

reason for awarding a sum of money. If there is a belief on the other side that the results of the treaty are injurious to a great industry, which nearly all civilized nations have thought it worth while to foster by bounties, that is no argument against rendering compensation. Whatever benefit the citizens of the United States are proved to derive from the inshore mackerel fisheries, within three miles of the shore of the Gulf of St. Lawrence, for that you are to make an award, having regard to the offset, of which it will be my duty to speak at a later period. The inquiry divides itself into these two heads: First, What has been the value from July 1, 1873, down to the present time? and, second, What is it going to be hereafter? I invite your attention to the proof that is before you as to the value of the mackerel fishery since the treaty went into effect. And here I must deal with the question, What proportion of the mackerel is caught in territorial waters, viz, within three miles from the shore? A great mass of testimony has been adduced on both sides, and it might seem to be in irreconcilable conflict. But let us not be dismayed at this appearance. There are certain land-marks which cannot be changed, by a careful attention to which I think we may expect to arrive at a tolerably certain conclusion. In the first place, it has been proved, has it not, by a great body of evidence, that there is, and always has been, in the Gulf of St. Lawrence, a very extensive mackerel fishery clearly beyond British jurisdiction, as to which no new rights are derived by the citizens of the United States from the Treaty of Washington. It is true that the map filed in the British Case, and the original statement of that case, make no distinction between the inshore and the deep-sea mackerel fisheries. To look at this map, and to read the British Case, you would think that the old claims of exclusive jurisdiction throughout the gulf were still kept up, and that all the mackerel caught in the Gulf of St. Lawrence were, as one of the witnesses expressed himself, "British subjects." But we know perfectly well that a United States vessel, passing through the Gut of Canso to catch mackerel in the gulf, will find numerous places where, for many years, the fishing has been the best, where the fish are the largest, and where the catches are the greatest, wholly away from the shore. The map attached to the British Case tells this story, for all through the Gulf of St. Lawrence, the gentlemen who formed that map have put down the places where mackerel are caught; and if the map itself does not indicate that seven-eighths of the mackerel fishing-grounds must be clearly far away from the shore, I am very much mistaken. At the Magdalen Islands, where we have always had the right to fish as near as we pleased to the shore, the largest and the best mackerel are taken. At Bird Rocks, near the Magdalen Islands, where there is deep water close to the rocks, and where the mackerel are undoubtedly taken close inshore (within two or three miles of the Bird Rocks you will find the water to be twenty fathoms deep), all around the Magdalen Islands, the mackerel fishing is stated by the experts who prepared this map to be good the season through. Then we have the Bank Bradley, the Bank Miscou, the Orphan Bank, the Fisherman's Bank, and we have the fishing-ground of Pigeon Hill; all these grounds are far away from the shore, where there cannot be the least doubt that our fishermen have always had the right to fish, aside from any provisions of the present treaty. The most experienced and successful fishermen who have testified before you say that those have been places to which they have resorted, and that there they were most successful.

Look at the testimony of Andrew Leighton, whom we heard of from

the other side early as one of the most successful fishermen that ever was in the gulf. He speaks of the largest season's fishing any man ever had in the bay, 1,515 barrels. He says, "I got the mackerel the first trip at Orphan's and the Magdalens; the second trip at the Magdalens; the third trip at Fisherman's Bank; and I ran down to Margaree and got 215 barrels there, and went home." All the mackerel at Margaree, he says, were caught within two miles of the shore, within the admitted limits. Recall the evidence of Sylvanus Smith and Joseph Rowe, experienced and successful fishermen, who tell you that they cared little for the privilege of fishing within three miles of the land; that they did not believe that vessel-fishing could be prosecuted successfully there, because it required deeper water than is usually found within the distance of three miles to raise a body of mackerel sufficient for the fishermen on a vessel to take the fish profitably; that boat-fishing is a wholly distinct thing from vessel-fishing; that boats may anchor within three miles of the land and pick up a load in the course of a day, at one spot, where mackerel would be too few and too small for a vessel with fifteen men to fish to any advantage. Almost all the evidence in this case of fishing within three miles of the shore relates to the bend of Prince Edward Island and to the vicinity of Margaree. As to the bend of the island it appears, in the first place, that many of our fishermen regard it as a dangerous place, and shun it on that account, not daring to come as near the shore as within three miles, because in case of a gale blowing on shore their vessel would be likely to be wrecked. It appears, also, that even a large part of the boat-fishing there is carried on more than three miles from the shore. Undoubtedly many of the fishermen have testified to the contrary; many of the boat-fishermen from the island have testified that nearly all their fish were caught within three miles; still it does appear, by evidence that nobody can controvert, that a great part of the boat-fishing is more than three miles out. One of the witnesses from the island, James McDonald, says, in his deposition, that from the middle of September to the first of November not one barrel in five thousand is caught outside the limits, and he gives as a reason that the water will not permit fishing any distance from the shore because it is too rough. But it is perfectly obvious that a man who so testifies either is speaking of fishing in the very smallest kind of boats, little dories that are not fit to go off three miles from the shore, and, therefore, knows nothing of vessel or large boat fishing, or else that he is under the same delusion that appears in the testimony of two other witnesses to which I referred in another connection. McNeill, who, on page 42 of the British affidavits, describes the three-mile limit thus: "A line drawn between two points, taken three miles off the North Cape and East Point of this island;" and John A. McLeod, on page 228, who defines the three-mile limit as "a line drawn from points three miles off the headlands." When a witness comes here and testifies that after September not one barrel of mackerel in five thousand is taken outside of the three-mile limit because it is too rough to go so far out, he is either speaking of a little cockleshell of a boat that is never fit to go out more than one or two miles, or else he retains the old notion that the headland-line is to be measured from the two points, and that three miles outside that line (which would be something like twenty-five or thirty miles out from the deepest part of the bend of the island) is the territorial limit.

Mr. THOMSON. If you will read the other portion of his deposition, you will see that your statement is not quite fair.

Mr. FOSTER. "That the fish are nearly all caught close to the shore, the best fishing-ground being about one and one-half miles from the

shore. In October the boats sometimes go off more than three miles from land. Fully two-thirds of the mackerel are caught within three miles from the shore, and all are caught within what is known as the three-mile limit; that is, within a line drawn between two points taken three miles off the North Cape and east point of this island." (McNeill, p. 42.) We will have this evidence accurately, because I think it sheds considerable light on the subject. "That nine-tenths of our mackerel are caught within one and one-half miles from the shore, and I may say the whole of them are caught within three miles of the shore." (McLeod, p. 228.) Somewhere the expression "not one barrel in five thousand" occurs. It is in one of those affidavits; perhaps in the first one. I have read the passage, so as to do no injustice to the statement of the witness.

Mr. Hall testified that for a month before the day of his testimony, that is to say, after about the first week in September, no mackerel were caught within five or six miles of the shore; and he applied that statement to the specimen mackerel which were brought here for our inspection and our taste; and Mr. Myrick, from Rustico, told the same story. Moreover, all their witnesses, in speaking of the prosperity of the fishing business of the island, which has been dwelt upon and dilated upon so much, speak of the fact that not only are the boats becoming more numerous, but they build them larger every year—longer, deeper, and bigger boats—why? To go farther from the shore. So said Mr. Churchill. I call that a pretty decisive test of the question, what proportion of the mackerel is caught within three miles of the shore. What does Professor Hind say on that subject? In the report that has been furnished us, he says (page 90):

Mackerel-catching is a special industry, and requires sea-going vessels. The boat equipment so common throughout British American waters is wholly unsuited to the pursuit of the mackerel, which has been so largely carried on by the United States fishermen. Immense schools of mackerel are frequently left unmolested in the gulf and on the coasts of Newfoundland, in consequence of the fishermen being unprovided with suitable vessels and fishing gear. It is, however, a reserve for the future, which at no distant day will be utilized.

Then he goes on to remark that the use of the telegraph is likely to become of great value in connection with these fisheries.

Now, is there any explanation of these statements, except that the bulk of the mackerel are caught more than three miles off, in the body of the gulf? If it is a "special industry," to which boats are wholly unsuited, can it possibly be true that a great proportion of the fish is caught within three miles of the shore? How can you account for these statements of their scientific witness in his elaborate report, except by the fact that he knows that the mackerel fishery is so large a part of it, a fishery more than three miles off the coast, that it can profitably be pursued only in vessels?

There are two other things, that lie beyond the range of controversy, to which I wish to call your attention. In the first place, there is a statement made by the United States consul at Prince Edward Island, J. H. Sherman, back in 1864, in a communication to the Secretary of State at Washington, long before any question of compensation had arisen—a confidential communication to his own government, by a man who had every opportunity to observe and no motive to mislead. He was writing with reference to the value of the inshore fisheries, and the statement so perfectly corresponds with what I believe to be the real truth, that I desire to read it.

The Reciprocity Treaty seems to have been an unalloyed boon to the colony. The principal benefit that was expected to accrue to the United States by its operation

was from the removal of the restrictions upon our vessels engaged in the fisheries to a distance of three marine miles from the shore; but whatever advantage might have been anticipated from that cause has failed to be realized.

The number of vessels engaged in the fisheries on the shores of this colony has greatly diminished since the adoption of that treaty, so that it is now less than one-half the former number. The restriction to three marine miles from the shore (which we imposed upon ourselves under a former treaty) has, I am assured, but a few, if any advantages, as the best fish are caught outside of that distance, and the vessels are idle in less time, from the fact that the men are liable to no loss of time from idling on the shore.

Next take Appendix E of the British Case. Look at the report of the executive council of Prince Edward Island, made to the Ottawa Government in 1874, with reference to the preparation of this very case. They are undertaking to show how large a claim can be made in behalf of the inshore fisheries of the island, and what do they say (page 3, paragraph 8)?

From the 1st of July to the 1st of October is the mackerel season around our coasts, during which time the United States fishing-fleet pursues its work, and as it has been shown—

I do not know where it has been shown—

that in 1872 over one thousand sail of United States schooners, from 40 to 100 tons, were engaged in the mackerel fishery alone.

More than the whole number of the United States vessels licensed to pursue the mackerel and cod fisheries in that year; so that those statistics were large, and the gentlemen who prepared this statement were not indisposed to do full justice to their claims. They did not mean to understate the use made of the fisheries of the island nor the importance of them to the United States fishermen.

This fact, together with our experience in the collection of "light-money," now abolished, as well as from actual observation, a fair average of United States vessels fishing around our coast during the season referred to may be safely stated at three hundred sail, and as a season's work is usually about six hundred barrels per vessel, *we may fairly put down one-third of the catch as taken inside of the three-mile limit.*

Such was the extent of the claim of the Prince Edward Island Government with reference to the proportion of the inshore and off shore catch of mackerel when they began to prepare this case. After this, they may pile affidavits as high as they please, they can never do away with the effect of that statement. Those gentlemen know the truth. The rest of this paragraph goes on to estimate that \$5 a barrel is the net cost of the fish; but I will not go into that.

Mr. THOMSON. You will adopt that whole paragraph?

Mr. FOSTER. Hardly. I adopt the statement that, in the judgment of the executive council of the island, the strongest claim that they could make as to the proportion of mackerel taken within three miles of the shore was one-third.

But we have more evidence about this inshore fishery, for I am now trying to call your attention to those matters that lie outside the range of controversy, where you cannot say that the witnesses, under the pressure of excited feeling, are making extravagant statements. Let us see what the statement was in the debates upon the adoption of the treaty. Dr. Tupper, of Halifax, in giving an account of the state of the fisheries, says: "The member for West Durham stated that if Canada had continued the policy of exclusion, the American fisheries would very soon have utterly failed, and they would have been at our mercy. This was a great mistake. Last summer he went down in a steamer from Dalhousie to Pictou, and fell in with a fleet of thirty American fishing-vessels, which had averaged three hundred barrels of mackerel in three

weeks, and had never been within ten miles of the shore." I am inclined to concede, for the purposes of the argument, that of the mackerel caught by boats off the bend of Prince Edward Island, about one-third are taken within three miles of the shore. I believe it to be a very liberal estimate, and I have no idea that any such proportion was ever taken by a single United States vessel fishing in that vicinity. I have already alluded to the fact that the boat-fishing and the vessel-fishing are wholly different things, and to the necessity of a vessel being able to raise a great body of mackerel. Do you remember the testimony of Captain Hurlbert, pilot of the *Speedwell*, certainly one of the most intelligent and candid witnesses that has appeared here? He stated that you could not catch the mackerel in any quantities on board vessels off the bend of the island, because the water was not deep enough within three miles. Take the chart used by Professor Hind in connection with his testimony, and see within three miles of the shore how deep the water is. Ten to fifteen fathoms is the depth as far out as three miles. You will hardly find twenty fathoms of water anywhere within the three-mile zone. Captain Hurlbert gave, with great truth, the reason for his opinion, that there was not depth of water enough there to raise a body of mackerel necessary for profitable vessel-fishing. My brother Davies felt the force of that, and cross-examined him about the Magdalen Islands. I have been looking at the chart of the Magdalen Islands, and I have also considered the testimony as to the fishing in that vicinity. A great deal of the fishing at the Magdalen Islands is done more than three miles from the shore. The place where the best mackerel are taken, Bird Rocks, will be found to have twenty fathoms of water within the three-mile limit. And when you come to that locality, where I honestly believe a larger proportion of mackerel are caught within three miles than anywhere else—that is, off Margaree, in the autumn—you will find by the chart that the water there is deep, and that twenty fathoms is marked for quite a distance in a great many localities within three miles of the land. I have always understood the Byron Islands and the Bird Rocks to be a part of the Magdalen Islands, and they have always been so testified to by the witnesses. When they have spoken of the Magdalen Islands, they have included fishing in those two localities as within the Magdalen Islands fisheries. In speaking of localities, they name the Bird Rock, but they speak of it as part of the Magdalen Islands. That particular question of geography may deserve more attention hereafter. I cannot now pause to consider it.

Right here let me read from an early report on this subject of fishing inshore. Captain Fair, of Her Majesty's ship *Champion*, in 1839, says that he passed through a fleet of six or seven hundred American vessels in various positions, some within the headlands of the bays and some along the shores, but none within the three-miles interdiction. While cruising in the vicinity of Prince Edward Island, he states that there was not "a single case which called for our interference or where it was necessary to recommend caution; on the contrary, the Americans say that a privilege has been granted them, and that they will not abuse it." —(Sabine's Report on the Fisheries, page 410.)

There is something peculiar about this Prince Edward Island fishery and its relative proportion to the Nova Scotia fishery. As I said before, I am inclined to believe that the greatest proportion of mackerel caught anywhere inshore is caught off Margaree late in the autumn. The United States vessels, on their homeward voyage, make harbor at Port Hood, and lie there one or two weeks; while there, they do fish within three miles of Margaree Island; not between Margaree Island and the

mainland, but within three miles of the island shores; and just there is found water deep enough for vessel-fishing. Look at the chart, which fully explains to my mind the inshore fishing at this point. Margaree is a part of Nova Scotia, and Professor Hind says there is an immense boat-catch all along the outer coast of Nova Scotia, and estimates that of the Dominion mackerel catch Quebec furnishes 7 per cent. (he does not say where it comes from), Nova Scotia 80 per cent., New Brunswick 3 per cent., and Prince Edward Island 10 per cent. Considering the fact that the preponderance of the testimony in regard to the mackerel fishery comes from Prince Edward Island, is it not strange that it does not furnish more than 10 per cent. of the entire catch; that is, not more than 12 or 16,000 barrels of mackerel a year? But this accords with the report of J. C. Tache, deputy minister of agriculture (pages 43 and 44), which is the most intelligible report or statistical memoranda of the Canadian fisheries that I have found. It bears date 1876, and in narrow compass, is more intelligible to me, at least, than the separate statements which I am obliged to draw from the large volumes. Mr. Tache says that "the figures of the Fisheries' Report are a very great deal short of the real quantities caught every year, as regards cod and herring, although coming quite close to the catch of mackerel. The reason is, that it is specially from large commercial houses, which are principally exporters of fish, that the information is gathered by the fisheries officers; then it comes that mackerel, being principally obtained for exportation and held in bond by large dealers, is found almost adequately represented in these returns.

When I called Professor Hind's attention to these statements, and remarked to him that we had not heard much said about the places where mackerel were caught in Nova Scotia, he replied it was because there was an immense boat-catch on the coast. If there has been any evidence of United States vessels fishing for mackerel within three miles of the shores, or more than three miles from the shore of the outer coast of Nova Scotia, it has escaped my attention. There is no considerable evidence, I do not know but I might say no appreciable evidence of United States vessels fishing for mackerel off the coast of Nova Scotia (I am not now speaking of Margaree, but the coast of Nova Scotia). As to Cape Breton, very little evidence has been given except in reference to the waters in the neighborhood of Port Hood.

You will observe that this estimate of the Prince Edward Island fisheries, ten per cent., must be nearly correct. It is larger than the returns of exportation, a little larger than Mr. Hall's estimate, and I think if I say that from 12 to 15,000 barrels of mackerel are annually exported from Prince Edward Island, I shall do full justice to the average quantity of fish caught there. Now it does seem to me that there has been no evidence that can tend to lead you to suppose that the quantity taken by United States vessels in that neighborhood since the Treaty of Washington, five years ago, compares at all in magnitude with the quantity taken by the island vessels themselves.

There are some other topics connected with the mackerel catch to which I want to call your attention. Remember, gentlemen, always, that we hold this investigation down to the period of the treaty; and that you have no right to make any award against the United States for anything anterior to the first day of July, 1873, or subsequent to twelve years later than that.

Now, I wish to present some figures relative to the years that have elapsed since the fishery clauses of the Treaty of Washington took effect. I will begin with 1873. That year the Massachusetts inspection of

mackerel was 185,748 barrels; the Maine inspection was 22,193 barrels; the New Hampshire inspection was 2,398 barrels. (I am quoting now from Appendix O.) The total amount of the Massachusetts, Maine, and New Hampshire inspection, for the year 1873, is 210,339 barrels. That is the entire amount caught by United States vessels and boats around our shores, coasts, and in the Gulf of St. Lawrence. Whatever comes from our vessels appears in the inspection. During that year, we are favored with the returns from Port Mulgrave; and, allowing for a little natural spirit of exaggeration, which some might attribute to the patriotic feelings of the collector, and others to the disposition of American fishermen to tell as good stories of their catch as they can, we find the Port Mulgrave returns to be pretty accurate. They are a few per cent. in excess of the statistics of the catches, with which I have compared them to some extent; but still are tolerably accurate and fair returns for that year. They give 254 vessels, with an average catch of 348 sea-barrels and 313 packed barrels, aggregating 88,012 sea-barrels. Taking off ten per cent. for loss by packing, which accords with the current of the testimony—the Port Mulgrave inspector estimates the loss by packing to be $7\frac{1}{2}$ per cent., and he estimates 15 barrels off, but the current of the testimony makes it ten per cent.—the aggregate was 79,211 packed barrels. Of the 254 vessels, 131 came from Gloucester. Of these 254 vessels, 25 were lost that year, a loss of ten per cent. of all the United States vessels that were in the gulf. One-tenth part of all the vessels that came to the gulf that year were lost. That is the largest catch that our vessels have made since the treaty. Of that 79,211 barrels, which were caught by United States vessels in the Gulf of St. Lawrence, in the year 1873, what proportion are you prepared to assume was caught inshore? Is not a third a liberal estimate? Taking the Magdalen Islands, taking Bank Bradley, taking Orphan Bank, taking Miscou Bank, taking the Pigeon Hill grounds, taking the fishing off the bend of the island, that place where Captain Rowe said he always found the best and largest fish, inside of New London Head, 12 or 15 miles out—taking all these well-known localities into consideration, I ask whether there can be any doubt that it is a very liberal estimate, indeed, to say one-third was caught inshore? I do not think that all the mackerel taken by the United States vessels inshore, in all parts of the Gulf of St. Lawrence, averages an eighth or a tenth of the total catch, but I will assume for the moment one-third, the proportion which the Executive Council of Prince Edward Island thought a fair average for the shores of their island. That would make 26,404 barrels caught in British territorial waters in that year, the first year of the treaty. What were these mackerel worth? Mr. Hall tells you that he buys them landed on shore for \$3.75 a barrel. After they have been caught, after the time of the fishermen has been put into the business, he buys them for \$3.75 a barrel. If they are worth \$3.75 a barrel when they are caught, what proportion of that sum is it fair to call the right to fish for them worth? You may set your own figures on that. Call it one-half, one-third, or one-quarter. I should think it was somewhat extraordinary if the right to fish in a narrow zone three miles wide was worth any large portion of the value of the fish after they were caught and landed. But you may estimate that as you please. I will tell you how you will come out if you charge us with having caught a third of our fish inshore that year, and with the full value that Mr. Hall pays for them after they are caught. It is \$99.015.

That was the first year of the treaty, and there were imported into the United States from the British Provinces 90,889 barrels, on which

the duty of \$2 a barrel would amount to \$181,778. The value of the fish that our people caught is \$99,000, and the British fishermen gain in the remission of duties nearly \$182,000.

Look at it in another way. Does anybody doubt that, barrel for barrel, the right to import mackerel free of duty is worth more than the right to fish for them? Is not the right to carry into the United States market, after they are caught, a barrel of mackerel, worth as much as the right to fish for a barrel of mackerel off the bight of the island? Estimating it so, 90,889 barrels came in duty free, and there were caught in the gulf by American vessels, 79,211 barrels. That is the first year of the treaty, and by far the best year.

The next year, 1874, the Massachusetts inspection was 253,330 barrels. Since 1873 there has been no return from Maine. There is no general inspector, and the Secretary of State informs us that the local inspectors do not make any returns. I suppose that if you call the Maine catch 22,000 barrels, the same as the year before, you will do full justice to it, for the Maine mackerel fishery, according to the testimony, has obviously declined for years. The inspection in New Hampshire was 3,519 barrels. There was imported into the United States that year from the provinces, 89,693 barrels, on which there was saved a duty of \$179,386. That year the Port Mulgrave returns show 164 vessels to have been in the Gulf of Saint Lawrence, of which 98 came from Gloucester; 63,078½ sea-barrels, or 56,770 packed barrels, were taken. The Gloucester vessels caught 48,813 barrels. Take these 56,770 packed barrels as the aggregate catch in the year 1874 in the Gulf of Saint Lawrence, by United States vessels, and set them off against the 89,693 barrels imported into the United States, and where do you come out? Pursuing the same estimate, that one-third may have been caught inshore—an estimate which I insist is largely in excess of the fact—there would be 18,923 barrels caught inshore, which would be worth \$70,961, at Mr. Hall's prices; and you have \$70,961 as the value, after they are caught and landed, of the mackerel we took out of British territorial waters, to set against a saving of \$179,386 on American duties. That is the second year.

Now, come to 1875. That year the catch was small. The Massachusetts inspection was only 130,064; the New Hampshire inspection, 3,415 barrels. The provincial importation into the United States is 77,538 barrels. That fell off somewhat, but far less than the Massachusetts inspection, in proportion. The duty saved is \$155,076. Fifty-eight Gloucester vessels are found in the bay, as we ascertain from the Centennial book, and Mr. Hind, speaking of the mackerel fishery in 1875, and quoting his statistics from some reliable source, says, "the number of Gloucester vessels finding employment in the mackerel fishery in 1875 was 180. Of these, 93 made southern trips, 117 fished off shore, and 58 visited the Bay of St. Lawrence; 618 fares were received, 133 from the south, 425 from off shore, and 60 from the bay." (Hind's Report, pp. 88, 89.) Fifty-eight vessels from Gloucester made 60 trips.

Now, where are the Port Mulgrave returns for 1875? They were made, for we have extracted that fact. We have called for them. I am sure we have called often and loud enough for the Port Mulgrave returns of 1875 and 1876. Where are they? They are not produced, although the collector's affidavit is here, as well as the returns for 1877, which we obtained, and of which I shall speak hereafter. The inference from the keeping back of these returns is irresistible. Our friends on the other side knew that the concealment of these returns was conclusive evidence that they were much worse than those of the previous year, 1874; and

yet they preferred to submit to that inevitable inference rather than have the real fact appear. Rather than to have it really appear how much the 58 Gloucester vessels caught in the bay that year, they prefer to submit to the inference which must necessarily be drawn, which is this—and it is corroborated by the testimony of many of their witnesses—that that year the fishing in the bay was a total failure. I can throw a little more light on the result of the fishing in the bay that year. There were 58 vessels from Gloucester, which averaged a catch of 191 barrels, while 117 on the United States coast caught an average of 409 barrels. This comes from the statistics for the Centennial: 11,078 barrels of mackerel taken from the Gulf of St. Lawrence in 1875 is all that we know about. What more there were our friends will not tell us, because the aggregate of 11,078 barrels caught by 58 vessels, averaging 191 barrels a vessel, is so much better result than the Port Mulgrave returns would show, that they prefer to keep the returns back. I think, gentlemen, that this argument from the official evidence in your possession is one that, under the circumstances, you must expect to have drawn. That year, so far as we know, only 11,078 barrels of mackerel came out of the gulf; but double it. You will observe that more than half of the vessels have come from Gloucester every year. The previous year, there were 98 out of 164. Let us double the number of vessels that came from Gloucester. Suppose that there were as many vessels came from other places, and that they did as well. The result would give you 23,156 barrels. Take the actual result of the Gloucester vessels; suppose as many more came from other places, when we know that the previous year a majority came from Gloucester, (I want to be careful in this, for I think it is important), and about 23,000 barrels of mackerel were taken out of the Gulf of St. Lawrence in the year 1875, against an importation of 77,538 barrels into the United States from the provinces, on which a duty was saved of \$155,076.

In the year 1876, by the official statement, which was lost, 27 trips were returned to the custom-house as being made by Gloucester vessels to the Gulf of St. Lawrence. I cannot verify that; it depends merely upon memory. We have not had the Port Mulgrave returns. I give my friends leave to put them in now, if they will do so, or give us an opportunity to examine them. I invite them to put them in now if they think I am overstating the result. There were 27 Gloucester vessels (I may be in error about this; it is mere memory) came to the gulf in 1876. The Massachusetts inspection was 225,941 barrels; the New Hampshire inspection was 5,351 barrels. The United States importation was 76,538 barrels. Duty saved, \$153,076. To be sure, they will say that 1875 and 1876 were poor years. They were poor years—no doubt about that—but average them with 1873 and 1874 and see if the result is in the least favorable; see if they are able to show any considerable benefit derived by our people from inshore fishing, or anything which compares with the saving in respect to duty that they make.

When we began this investigation nearly every witness that was examined was asked whether the prospects for the present year were not very good; whether it was not likely to be an admirable mackerel year in the gulf, and they said "Yes." They said the gulf was full of mackerel. Somehow or other that impression got abroad, and our vessels came down here in greater numbers than before for several years. One witness has seen 50 or 75 vessels there. I think 76 came from Gloucester. There may have been 100 there in all. You will recollect that one witness said the traders in Canso telegraphed how fine the prospects were, with a view probably to increase their custom; but they did ex-

pect that the fishing in the Gulf of St. Lawrence was to be better than it had been for a long time. Let us see what has happened this year. We have a part of the Port Mulgrave returns; down to the 25th of September, 1877. There is another page or half a page which our friends have not furnished us. I invite them to put that in now. I would like it very much. But so much as we were able to extract produced the following result: 60 vessels; 8,365½ barrels; an average of 139½ sea-barrels or 125 packed barrels; and one of our affidavits says that the fish on one vessel were all bought. The John Wesley got 190 barrels, very much over the average, and the witness said he went to the gulf, could not catch any mackerel, and thought he would buy some of the boatmen. But 125 packed barrels is the average catch, and 8,365½ is the total number of barrels. Now, multiply that by the value of the mackerel after they are landed and see what is the result. It is about \$31,370.

I will not stop to do that sum accurately, because it is too small; but I will call your attention to the results of the importation this year. The importations into Boston, to October 1, from Nova Scotia and New Brunswick, were 36,576 barrels; from Prince Edward Island, 14,549½ barrels; in all, 51,125½ barrels, which would amount in duty saved to \$102,251, up to the 1st of October. It is not strictly evidence, and if my friends object to it, it may be stricken out; but here is the last report of the Boston Fish Bureau, that came yesterday, which gives later results. Up to November 2, there had been 77,617 barrels imported into Boston from the provinces, more than double the amount that was imported in 1876, up to the same time; so that, while there has been this great falling off in the vessel fishery in the gulf—it is a total failure to-day—there has been double the catch by boats, and double the catch by the Provincial fishermen. They have saved \$155,234 of duty as against something like \$30,000 worth of fish, when they are caught. It may be said that these returns will not represent the average, but we had a witness here, the skipper of the schooner Eliza Poor, Captain William A. Dickie, who testified on page 264 of the American evidence, that he had 118 sea-barrels, or 106 packed barrels. He was one of those men who happened into Halifax, on his schooner, and upon cross-examination it was drawn from him by Brother Doutre, that Mr. Murray, the collector at Mulgrave, told him that he had an average or more than an average of the catch of the United States fleet. He saw fifty United States vessels in the gulf. In the absence of more complete returns, that is the best account I am able to give of the condition of the mackerel fishery in the Gulf of St. Lawrence since the Treaty of Washington was enacted.

I might confirm this by calling your attention to the testimony of witnesses from the other fishing towns in Massachusetts, Provincetown, Wellfleet, and other places, showing how the number of their vessels has decreased, and that the business is being abandoned, so far as the Gulf of St. Lawrence goes. Whatever is left of it is concentrated in Gloucester, and there its amount is insignificant.

I have spoken incidentally of the amount of duties saved upon the Provincial catch. On the subject of duties I propose to speak separately by and by; but I do not wish to leave this branch of the subject without calling your attention to what strikes me as evidence so convincing that it admits of no answer. We have shown you how, under the operation of the Treaty of Washington, or for natural causes, the mackerel fishery of the United States vessels in the Gulf of St. Lawrence has been dwindling down; that hardly any profitable voyages have been made to the gulf since the treaty. Certainly there has been no year when the

fishing of our vessels in the gulf has not been a loss to the fishermen. Let me call your attention to the fisheries of the provinces. In 1869, Mr. Venning, in making his fishery report, after speaking of the falling off in the mackerel catch, went on to say: "This may be accounted for chiefly by stating that a large proportion of our best mackerel catchers ship on board American vessels on shares, and take their fish to market in those vessels, and thus evade the duty; but after selling their fish, for the most part return home with the money."

The Hon. S. Campbell, of Nova Scotia, in the debate on the Reciprocity Treaty, says:

Under the operation of the system that had prevailed since the repeal of the treaty of 1854, the fishermen of Nova Scotia had, to a large extent, become the fishermen of the United States. They had been forced to abandon their vessels and homes in Nova Scotia and ship to American ports, there to become engaged in aiding the commercial enterprises of that country. It was a melancholy feature to see thousands of young and hardy fishermen compelled to leave their native land to embark in the pursuits of a foreign country, and drain their own land of that aid and strength which their presence would have secured.

Mr. James R. McLean, one of our witnesses, was asked whether the condition of things was not largely due to want of capital, and he said:

It was owing to this reason: We had to pay \$2 a barrel duty on the mackerel we sent to the United States, and the men would not stay in the Island vessels when they saw that the Americans were allowed to come and fish side by side with the British vessels, and catch an equal share of fish; of course, this was the result. The fishermen consequently went on the American vessels; our best men did so, and some of the very best fishermen and smartest captains among the Americans are from Prince Edward Island and Nova Scotia.

Captain Chivirie, the first and favorite witness called on the British side, says:

Q. What class of men are the sailors and fishermen employed among the Americans?—A. I would say that, for the last fifteen years, two-thirds of them have been foreigners.

Q. What do you mean by the term "foreigners"?—A. That they are Nova Scotians, and that they come pretty much from all parts of the world. Their fishermen are picked pretty much out of all nations.

Q. If the Americans were excluded from our fishing privileges, what do you think these men would do?—A. They would return to their native home and carry on fishing there.

Q. Have many of them come back?—A. O, yes. We have a number of Island men who have returned. A large number have done so. A great many come home for the winter and go back to the States in the spring; but during the past two years many of this class have come down to remain. This year I do not know of more than a dozen, out of three hundred in my neighborhood, who have gone back. They get boats and fish along the coast, because they find there is more money to be secured by this plan of operations. The fisheries being better, the general impression is that they are all making towards home to fish on their own coast.

James F. White says in his affidavit, put in on the British side:

The number of boats fishing here has trebled in the last three years. The reason of this increase is that other business is depressed, and fishermen from the United States, Newfoundland, New Brunswick, and Nova Scotia are coming here to settle, attracted by the good fishing, so that we are now able to get crews to man our boats, which formerly we were unable to do. Another reason is that the year 1875 was a very good year, and owing to the successful prosecution of the fishing that year, people's attention was turned to the business, and they were incited to go into it.

And another of their men, Meddie Gallant, says in his affidavit:

In the last five years, the number of boats engaged in fishing in the above distances has at least doubled. At this run alone there has been a very great increase. Eight years ago there were only eight boats belonging to this run, now there are forty-five. The boats are twice as good in material, fishing outfit, in sailing, in equipment, in rigging, and in every way, as they were five years ago. There is a great deal more money invested in fishing now than there was. Nearly every one is now going into the business about here. The boats, large and small together, take crews of about three men each. That is, besides the men employed at the stages about the fish, who are a considerable number.

So then, while the mackerel-fishing of our vessels in the gulf has been diminishing, theirs has been largely increasing. What! all this, and money too! Is it not enough that two, three, or four times as much fish is taken by them as before the treaty? Is it not enough that they are prosperous, that those who have left them are returning home, and everybody is going into the business? Can they claim that they are losers by the Treaty of Washington? Is it not plain that they have, in consequence of its provisions, entered upon a career of unprecedented prosperity?

At this point Mr. Foster suspended his argument, and the Commission adjourned until Tuesday, at noon.

TUESDAY, *November 6, 1877.*

The Commission met, according to adjournment, and Mr. Foster resumed his argument.

GENTLEMEN OF THE COMMISSION: At the adjournment yesterday, I had been giving some description of the quantity of the mackerel fishing since the Treaty of Washington by American vessels in the Gulf of St. Lawrence and in the vicinity of British waters. For the years 1873 and 1874, I am content to rest upon the information derived from the Port Mulgrave statistics. With reference to the subsequent years, 1875, 1876, and 1877, there are one or two pieces of evidence to which I ought, perhaps, specifically to refer. Your attention has already been called to the fact that the Magdalen Islands and the Banks in the body of the Gulf of St. Lawrence, of which Professor Hind says there are many not put down on the chart ("wherever you find banks," he says, "there you expect to find mackerel"), have been the principal fishing grounds of the United States vessels for many years. The disastrous results of the great gale of 1873, in which a large number of United States vessels were lost, and in which more than twenty Gloucester vessels went ashore on the Magdalen Islands, show where, at that time, the principal part of the mackerel fleet was fishing. In 1876, the report of the Commissioner of Fisheries for the Dominion speaks of the number of vessels that year found at the Magdalen Islands. He says, "About one hundred foreign vessels were engaged fishing this season around the Magdalen Islands, but out of that number I do not calculate that there were more than fifty engaged mackerel fishing, and, according to the best information received, their catch was very moderate."

We have also the statement of one of the Prince Edward Island witnesses, George Mackenzie, on page 132 of the British evidence, who, after describing the gradual decrease of the American fishery by vessels, says, "There has not been for seven years a good vessel mackerel fishery, and for the last two years it has been growing worse and worse." He estimates the number of the United States vessels seen off the island at about fifty. We have also the testimony of Dr. Fortin on the subject, who spent a number of weeks this year, during the height of the fishing season, in an expedition after affidavits, that took him all around the gulf, where he could not have failed to see whatever American vessels were fishing there. He says he "may have seen about 25 mackereling and sailing about," and that he heard at the Magdalen Islands there were seventy. According to the best information that I can obtain, that is not far from correct. Joseph Tierney, of Souris, says that there were twenty or thirty at Georgetown, fifteen or twenty at Souris, and he should think when he left home there were seventy-five. Ronald Mac-

donald, of East Point, says that he has not seen more than thirty sail this year at one time together; that last year he saw as many as a dozen and perhaps fifteen or twenty sail at a time. The number has diminished very much, he says, for the last five or six years, until this year.

Now, gentlemen, this is the record of the five years during which United States fishermen, under the provisions of the Treaty of Washington, have derived whatever advantages they could obtain from the inshore fisheries. I have heard the suggestion made that it would have been better if this Commission had met in 1872, because there might have then been evidence introduced with reference to the whole twelve years of the Treaty of Washington; and I have even heard it said that it would have been fair to estimate the value of the privilege for the twelve years according to the appearance at that time. That is to say, that it would have been fairer to estimate by conjecture than by proof, by anticipation than by actual results. It seems to me, on the contrary, gentlemen, that the fairer way would have been either to have the value of this privilege reckoned up at the end of each fishing year, when it could be seen what had actually been done, or to have postponed the determination of the question until the experience of the whole twelve years, as matter of evidence, could be laid before the Commission.

What shall we say of the prospects of the ensuing seven years? What reason is there to believe that the business will suddenly be revolutionized; that there will be a return to the extraordinary prosperity, the great number of fish, and the large catches that are said to have been drawn from the gulf twenty-five, twenty, fifteen years ago? We were told that the time for the revolution had come already when we met here, but the result proves that the present season has been one of the worst for our fishermen. What chance can you see that a state of things will ensue that will make the privilege any more valuable for the seven years to come than it has been for the five years already passed? Have you any right to assume that it is to be better without evidence? Have you any right, when you are obliged to judge of the future by the past, to go back to a remote past, instead of taking the experience of recent years? Would it be just for you to do so? This Commission, of course, does not sit here to be generous with the money of the Government of the United States, but simply to value in money what the citizens of the United States have under the treaty received, and are proved to be about to receive. It is, therefore, to be a matter of proof, of just such proof as you would require if you were assessing a charge upon each fishing-vessel, either as it entered the gulf or as it returned with its mackerel.

We think there have been, heretofore, quite good standards by which to estimate the values of the inshore fisheries. For four years a system of licenses was enforced. In the year 1866 the license-fee charged was only fifty cents a ton, except at Prince Edward Island, where it seems to have been sixty cents a ton. In 1867 it was raised to a dollar a ton, and \$1.20 at Prince Edward Island. In 1868 it was two dollars a ton, and \$2.40 at Prince Edward Island. The reason for the additional price on the island I do not know, but it is not, perhaps, of much consequence. Our fishermen told you that the motive that induced them to take out these licenses was twofold. In the first place, they desired to be free from danger of molestation. In the next place they did not desire, when there was an opportunity to catch fish within three miles of the shore, to be debarred from doing so; and if the license-fee had remained at the moderate price originally charged no doubt all of our vessels would have continued to pay the license as they did the first year. Three hun-

dred and fifty-four was the number of licenses the first year; but when the price was raised to a dollar a ton, half the number of vessels found it expedient to keep where they had always been allowed to go; to fish remote from the shore; even to avoid doubtful localities; to keep many miles out on the banks rather than pay a sum that would amount, on the average, to \$70 a trip; and when the price was raised to two dollars a ton hardly any of the vessels were willing to pay it. The reason why they would not pay it was not that they were contumacious and defiant. They were in a region where they were liable to be treated with great severity, and where they had experienced, as they thought, very hostile and aggressive treatment. They desired peace; they desired freedom. They did not wish to be in a condition of anxiety. Neither the captains of the vessels on the sea, nor the owners of the vessels at home, had any desire to feel anxiety and apprehension. The simple reason why they did pay when it was fifty cents a ton and ceased to pay when it became one dollar or two dollars a ton, was that the price exceeded, in their judgment, the value of the privilege. There were not mackerel enough taken within the inshore zone to make it worth their while to give so much for it. Whatever risk they were subjected to, whatever inconvenience they were subjected to from being driven off the shore, they preferred to undergo. If a license to fish inshore was not worth a dollar a ton in 1868 and 1869, in the halcyon days of the mackerel fishery, can anybody suppose it really is worth as much as that now? But fix the price of the license fee as high as you please. Go to this question as a question of computation, on business principles, pencil in hand; estimate how much per ton it is worth, or how much per vessel it is worth, and see to what result you are brought by the figures. Nobody thinks that for some years past there have been in the Gulf of St. Lawrence three hundred vessels from the United States fishing for mackerel. The average tonnage is put by no one at over 70 tons. That is about the average of Gloucester tonnage, and the vessels that come from Gloucester are larger than those that come from other places. Three hundred vessels, at \$70 a vessel, \$21,000 per annum. Put whatever you please per ton, and state the account; debit the United States with that, and see what the result is when you come to consider the duties. If it is called two dollars a ton, the highest price ever charged, it will be about \$42,000 a year.

Is there any prospect whatever that the mackerel fishery for American vessels in the Gulf of St. Lawrence will ever become prosperous? In order that it should do so, there must concur three things, of no one of which is there any present probability. In the first place, there must be much poorer fishing off the coast of the United States than usual, for as things have been there for some years past, until the present year, the fishing for mackerel was so much more profitable than it had ever been in the Gulf of St. Lawrence that there was no temptation for our vessels to desert our own shores; and off the shores of the United States seining can be pursued, which never has been successfully followed in the gulf. Seining mackerel is about the only really profitable mode of taking the fish, as a business out of which money can be made to any considerable amount. The days for hook-and-line fishing have passed away, and seining is the method by which the fish must be taken if money is to be made. That has never yet been done, and is not likely to be done, in the gulf. The bottom is too rough; the water is too shallow. The expedient that we were told at the beginning of the bearing had been adopted turns out to be impracticable, for shallow seines alarm and frighten away the fish. The seines are not made shallow to

accommodate themselves to the waters of the gulf. Year by year they are made longer and deeper, that a school of fish may be more successfully enveloped by them. Then there must also be much better fishing in the gulf than has existed for several years past. It has been going down in value every year since the treaty went into effect. It has got down to an average by the Port Mulgrave returns (I mean by the portion of the returns which we have) of 125 barrels a vessel this year, and, according to the verbal statement of the collector of Port Mulgrave, 108 barrels is quite up to the average. If any one takes the trouble to go through the returns we have put into the case and analyze them, it will appear that 108 barrels is quite as large as the average this year. Some vessels have come out of the gulf with nothing at all, and some with hardly anything at all. In the next place, in order to induce American vessels to go for mackerel to the Gulf of St. Lawrence in any considerable numbers, mackerel must have an active market at remunerative prices. There must be a different state of things in the United States in that respect from what has existed for many years past, for, by all accounts, the demand has been declining and the consumption has been diminishing for ten years past.

Without stopping to read at length the testimony on that point, there are two or three of the British witnesses who in a short compass state the truth, and to their testimony I wish to call your attention. Mr. Harrington, of Halifax, page 420, says, in answer to the question, "There has not been as much demand for mackerel from the United States for the last five years as formerly?" "Not so great." And in reply to the question, "There must be an abundant supply at home, I suppose?" he says, "I should say so, unless the people are using other articles of food." Mr. Noble, another Halifax witness, page 420, being asked the same question, says, "I think for the past two years the demand for mackerel has been quite as good as before." Mr. Hickson, of Bathurst, is asked this question, "Fresh fish are very rapidly taking the place of salt mackerel in the market, and the importance of salt mackerel and other cured fish is diminishing more and more every year. Is not this the case?" His answer is, "That is my experience in my district." "And owing to the extension of the railroad system and the use of ice-cars, pickled, salt, and smoked fish will steadily become of less consequence?" "Certainly." Mr. James W. Bigelow, of Wolfville, Nova Scotia, on page 223 of the British evidence, states very emphatically the practical condition of the business. He says, "The same remark applies not only to cod-fishing, but to all branches of the fishery; within the past ten years the consumers have been using fresh instead of salt fish. The salt-fish business on the continent is virtually at an end." He is sorry to say that he states this from practical knowledge of this business. He then goes on to say that fish is supplied to the great markets of the United States "from Gloucester, Portland, and New York; but from Boston principally." "And the fish is sent where?" "To every point West, all over the Union; the fish is principally boxed in ice." Then he goes on to state that if the arrangements of the Treaty of Washington should become permanent, instead of being limited to a term of twelve years, with the new railroad communication with this city that has been already opened, the result will be to make Halifax the great fish-business center of the continent; that the vessels will come in here with their fresh fish instead of of going to Gloucester or Boston or New York; that a great business, a great city, will be built up here; and he says that, notwithstanding the treaty is liable to terminate in seven years, he is expecting to put his own money into the business, and es-

establish himself in the fresh-fish business here. Our own witnesses—the witnesses for the United States—have given a fuller and more detailed explanation of this change that has taken place in the markets. It requires no explanation to satisfy any person, with the ordinary organs of taste, that one who can get fresh fish will not eat salt mackerel. Everybody knows that. *Crede experto*. Our witnesses tell you that fresh fish is sent as far as the Mississippi, and west of the Mississippi, in as great abundance as is to be found on the seaboard. It is just as easy to have fresh fish at Chicago and Saint Louis, and at any of the cities lying on the railroad lines one or two hundred miles west of the Mississippi, as it is to have fresh fish in Boston or Philadelphia. It is only a question of paying the increased price of transportation. Salt fish has to be transported there also, and it costs as much to transport the salt fish as the fresh fish. The result is, that people will not and do not eat salt fish nearly as much as formerly. Then there is a great supply of lake herring—a kind of white-fish—from the northern lakes. The quantity is so great that the statistics of it are almost appalling, although they come from the most authentic sources. This lake herring being sold at the same price as the inferior grades of mackerel—being sold often lower than the cheapest mackerel can be afforded—is taken in preference to it. People find it more agreeable.

At the South, where once there was a large mackerel demand usually, there has grown up an immense mullet business, both fresh and cured, that has taken the place of salt mackerel there. And so it has come to pass that there is a very limited demand in a few large hotels for that kind of salt mackerel which is the best, the No. 1 fat mackerel—a demand that would not take up, at the usual price in the market, \$20 a barrel, more than from five to ten thousand barrels all over the country, while, if you go down to the poorer grades of mackerel, few will buy them until they get as low as from \$7 to \$8 a barrel. I am not going over the testimony of Proctor, Pew, Sylvanus Smith, and our other witnesses on this subject, because what they have said must be fresh in the minds of all of you. It comes to this: people will not eat the mackerel unless they can buy it at a very low price. It comes into competition, not with other kinds of fish alone, but with every description of cheap food, and its price can never be raised above the average price of other staples in the market of equivalent food-value.

If it is to be impossible to dispose of considerable quantities of these fish until the price is brought down to about \$8 a barrel on the average, what inducement will there be to come, at great expense, to the Gulf of St. Lawrence, to have such results as for years past have followed from voyages here? The truth, gentlemen, is simply this: whether it is a privilege to you not to see United States vessels here, or whether their presence here has some incidental benefit connected with it, you are going to find for years to come that they will not be here. The people in the Strait of Canso who want to sell their supplies, will find them not there to buy supplies, and the unhappy fishermen who suffer so much from having them in the neighborhood of the island will be exempt from all such evil consequences hereafter. Once in two or three years, if there appears to be a chance of a great supply here, and if there happens to be a great failure on our own coast, a few of our vessels will run up in midsummer to try the experiment. But as to a large fleet of United States vessels fishing for mackerel in the Gulf of St. Lawrence, there is no immediate prospect that such will ever be the duty years ago fishing for mackerel died out in the Bay of Fundy—according to the witnesses many years ago mackerel were ex-

tremely abundant in the waters in the vicinity around Newfoundland. They have disappeared from all of those places, though, strange to say one schooner did get a trip of mackerel in a Newfoundland bay this summer, off the French coast, so that we are not obliged to pay for it in the award of this Commission; it was in waters where we had a right to fish before the Treaty of Washington. But this business, notoriously precarious, where no man can foretell the results of a voyage, or the results of a season, will pretty much pass away, so far as it is pursued by United States vessels. They will run out on our own coast; they will catch what they can and carry them to market fresh, and what cannot be sold fresh they will pickle. They will, when prospects are good, make occasional voyages here, but as for coming in great numbers, there is no probability that they will ever do it again. Our friends in Nova Scotia and upon the island are going to have the local fishery to themselves; I hope that it will prove profitable to them; I have no doubt it will prove reasonably profitable to them, because they, living on the coast, at home, can pursue it under greater advantages than the men of Massachusetts can. They are very welcome to all the profits they are to make out of it, and they are very welcome, if they are not ungenerous in their exactions from us, to all the advantages they derive from sending the fish that they take in their boats or vessels in Nova Scotia and Prince Edward Island to our markets, all they can make by selling them there. I am sure no one will grudge them.

I come now to a branch of this case which it seems to me ought to decide it, whatever valuation, however extreme, may be put upon the quantity of mackerel caught by our vessels in the territorial waters of the provinces. I mean the duty question; the value of the remission of duties in the markets of the United States to the people of the Dominion. We have laid the statistics before you, and we find that in 1874 there was \$335,181 saved upon mackerel and herring, and \$20,000 more saved upon fish-oil. There was, therefore, \$355,972 saved in 1874. In 1875 there was a saving of \$375,991 and some cents; in 1876, \$353,242. I get these figures by adding to the results of table No. 4, which shows the importation of fish, the results of table No. 10, which shows the fish oil. The statistics are Mr. Hill's. In table No. 5 you will find the quantities of mackerel and herring. The dutiable value of mackerel was two dollars a barrel; of herring, one dollar a barrel, and of smoked herring, five cents a box.

We are met here with the statement that the consumer pays the duties; and our friends on the other side seem to think that there is a law of political economy as inexorable as the law of gravitation, according to which, when a man has produced a particular article which he offers for sale, and a tax is imposed on that article, he is sure to get enough more out of the man to whom he sells the article to reimburse the tax. That is the theory, and we have heard it from their witnesses—"the consumer pays the duties"—as if they had been trained in it as an adage of political economy. But, gentlemen, I should not be afraid to discuss that question as applicable to mackerel and herring and the cured fish that come from the Dominion of Canada into the United States before any school of political economists that ever existed in the world. I do not care with what principles you start, principles of free trade or principles of protection, it seems to me that it can be proved to demonstration that this is a case where the duties fall upon those who catch the fish in the Dominion, and not upon the people of the United States who buy and eat them. The very treaty under which you are acting requires you to have regard to the value of the free market, ordains that in mak-

ing up your award you shall take it into account. And are you, upon any theories of political economy, to disregard what the treaty says you shall have regard to? Why, nobody ever heard the proposition advanced, until we came here to try this case, that free access to the markets of the United States was anything but a most enormous advantage to the people of these provinces.

Let us look at the history of the negotiations between the two governments on the subject. As early as 1845 (some years before the negotiations with reference to the Reciprocity Treaty), when the Earl of Aberdeen announced to Mr. Everett, as a matter of great liberality, that our fishermen were no longer to be driven out of the Bay of Fundy, he went on to say that, in communicating the liberal intentions of Her Majesty's Government, he desired to call Mr. Everett's attention to the fact that the produce of the labor of the British colonial fishermen was at the present moment excluded, by prohibitory duties on the part of the United States, from the markets of that country; and he submitted that the moment when the British Government made a liberal concession to the United States might well be deemed favorable for a kindred concession on the part of the United States to the British trade, by a reduction of the duties which operated so prejudicially to the interests of British colonial fishermen. That was the view of the home government long before any reciprocity treaty had been agitated, thirty-two years ago. The letter of Lord Aberdeen bears date March 10, 1845.

In 1850, a communication took place between Mr. Everett, then Secretary of State, through the British minister at Washington, in which Lord Elgin made the offer to which I referred in my Case, which I then understood to be an unequivocal offer to exchange free fish for free fishing, without regard to other trade relations. I found that, so far as that particular letter went, I was in error, and corrected the error. Subsequently, I found that Mr. Everett himself, two years later, had the same impression, for in a letter that he wrote, as Secretary of State, to the President, in 1853, before the Reciprocity Treaty, he says:

It has been perceived with satisfaction that the Government of Her Britannic Majesty is prepared to enter into an arrangement for the admission of the fishing-vessels of the United States to a full participation in the public fisheries on the coasts and shores of the provinces (with the exception, perhaps, at present, of Newfoundland), and in the right of drying and curing fish on shore, on condition of the admission duty free into the markets of the United States of the products of the colonial fisheries; similar privileges, on the like condition, to be reciprocally enjoyed by British subjects on the coasts and shores of the United States. Such an arrangement, the Secretary has reason to believe, would be acceptable to the fishing interests of the United States. (Thirty-second Congress, second session, Senate Ex. Doc. 34.)

The latter part of that letter contains a reference to general reciprocity, and shows the anxiety of the British authorities to have more extensive reciprocal arrangements made.

MR. KELLOGG. What is the date of Lord Elgin's letter?

MR. FOSTER. The letter of Lord Elgin is dated June 24, 1851. The letter which I just read from Mr. Everett to the President was in 1853. So that it seems that Mr. Everett then understood, as I did, that the offer was a specific one, and that the Government of Great Britain was at that time disposed to exchange the right of inshore fishing for the admission of fish into the United States duty free. It is not particularly important, at a date so remote, how the fact really was. I refer to it only to show the great importance attached at that early day—an importance which has continued to be attached from that time to the present—by the home government as well as the colonial government, to free access to the markets of the United States.

Coming down to the date of the Reciprocity Treaty, we find in every direction, whatever public document we refer to of any of the provinces, the same story told: That during the Reciprocity Treaty, they built up a great fish business, unknown to them before; that at the end of the Reciprocity Treaty, a duty of two dollars a barrel on mackerel, and one dollar a barrel on herring, excluded them from the markets of the United States and crushed out that branch of industry. At the risk of making myself tedious, I must read you some passages on that subject.

Here is what Mr. Peter Mitchell, the former minister of marine and fisheries, says, in 1869, in his "Return of all licenses granted to American fishermen," printed by order of Parliament, at Ottawa:

These excessive duties bear with peculiar hardship on our fishing industry, and particularly that of Nova Scotia and Prince Edward Island—the fishermen and dealers in those provinces being forced into competition, in United States markets, under serious disadvantages, side by side with the American free catch taken out of our own waters.

Yes, "*taken out of their own waters.*" I am not afraid of the words. If the consumer pays the duties, it would not make any difference out of what waters the fish were taken, which brought on competition, would it? I am discussing now the proposition that there is a law of political economy, of universal application, and particularly applicable to the mackerel which go from the provinces to Boston, by which whatever tax is imposed in the United States is forthwith added to the price and has to be paid by the man who eats the mackerel in the States, and it makes no difference where the competition arises from. Mr. Mitchell's statement, therefore, is absolutely to the purpose. He continues:

At the same time, other producers are subject to equally heavy charges on the agricultural, mineral, and other natural products of the United Provinces.

The direct extent to which such prohibitory duties affect the fishery interests of these provinces may be stated in a few words. During the year 1866, for example, the several provinces have paid in gold, as custom duty on provincial-caught fish exported to the United States, about \$220,000.

This amount was paid by the provinces in 1866, the year after the Reciprocity Treaty ended. Then, in a note, he says:

More forcibly to illustrate the unequal operation of the present system, suffice it to instance the following cases: A British vessel of 71 tons, built and equipped last season at St. John, N. B., costing \$4,800, expressly for the mackerel fishery in the Gulf of St. Lawrence and Bay of Chaleurs, took 600 barrels of fish, which sold in Halifax and Boston for \$6,000. After paying expenses (including \$9.86 in gold for customs) a profit of \$1,200 accrued to the owners. An American vessel from Newburyport, Mass., of 46 tons burden, took a license at Port Mulgrave, N. S., paying \$46. The whole cost of vessel and voyage was \$3,200 or \$2,400, Halifax currency. She fished 910 barrels of mackerel, which sold in Boston for \$13,000, about \$9,110 in gold, leaving a profit of \$6,710.

After speaking of the question of raising the license fee to higher figures, Mr. Mitchell continues (p. 6):

It is recommended that the rate be \$2 per ton, the mackerel fishery being that in which Americans chiefly engage, and as mackerel is the principal fish marketed in the United States by Canadians, on which the tax is \$2 per barrel, this rate amounts to a charge of but 20 cents per barrel, still leaving them an advantage of \$1.80 on each barrel, besides the drawback allowed on salt.

Did Mr. Peter Mitchell think that the \$2 a barrel duty was got back by the fishermen of the provinces? During the session of the Joint High Commission at Washington, when the American Commissioners made an offer to purchase the inshore fisheries in perpetuity, which was not coupled with any offer of free admission to our markets, the British Commissioners replied "that the offer was, as they thought, wholly inadequate, and that no arrangement would be acceptable of which the admission into the United States, free of duty, of fish, the production

of the British fisheries, did not form a part." And after the Treaty of Washington had been ratified, Earl Kimberly wrote to Lord Lisgar: "It cannot be denied that it is most important to the colonial fishermen to obtain free access to the American markets for their fish and fish-oil."

You can explain the language of these statements only upon the theory that they knew and understood that the duty was necessarily a tax upon the fish production of the provinces. How idle to have made observations of the kind that I have been reading except upon that plain hypothesis!

In the debates on the ratification of the treaty it was said by Sir John A. Macdonald that—

The only market for the Canadian No. 1 mackerel in the world is the United States. That is our only market, and we are practically excluded from it by the present duty. The consequence of that duty is that our fishermen are at the mercy of the American fishermen. They are made the hewers of wood and drawers of water for the Americans. They are obliged to sell their fish at the Americans' own price. The American fishermen purchase their fish at a nominal value and control the American market. The great profits of the trade are handed over to the American fishermen or the American merchants engaged in the trade, and they profit to the loss of our own industry and our own people.

And here let me call your attention to a striking fact, that from the beginning to the end of these negotiations the people of the maritime provinces, who own the inshore fisheries, have been the people who have been most anxious on any terms to have the duties removed in the United States markets. It was said in this debate by some one (I do not remember the name of the speaker) that "it is harsh and cruel for the people of Ontario, for the sake of forcing a general reciprocity treaty, to injure the fishing interests of the provinces by preventing them from getting a free market in the United States."

A gentleman from Halifax—Mr. Power—who is said to have devoted his whole life to the business, and to understand all about it, tells the story in a more practical way:

In the spring of each year some forty or fifty vessels resorted to the Magdalen Islands for herring, and he had known the number to be greater. These vessels carried an average of 200 barrels each; so that the quantity taken was generally in the neighborhood of 50,000 barrels. During the existence of the Reciprocity Treaty no United States vessels went after these fish. All the vessels engaged in that fishery belonged to some one of the provinces now forming this Dominion. Since the abrogation of the treaty and the imposition of the duty of \$1 per barrel by the United States the case had become entirely changed. Vessels still went there, but they were nearly all American. Now, under this treaty, we would get that important branch of trade back again.

You will remember that I said yesterday, gentlemen, that herring—a fish so poor and so cheap that American vessels cannot afford to engage in the fishery, it is far more advantageous for them to purchase than to catch—would be, by a duty of \$1 a barrel, entirely excluded from the markets of the United States, and it seems that such was the result in the interval between the termination of the Reciprocity Treaty and the ratification of the Treaty of Washington. See how Mr. Power deals with this question of whether the consumer pays the duty:

He had heard it said that the consumer paid the duty. Now, whilst this might be the case with some articles, it was not so with the article of our fish. In our case, in this business, our fishermen fished side by side with their American rivals, both carrying the proceeds of their catch to the same market, where our men had to contend against the free fish of the American fishermen. Let him illustrate this: An American and a provincial vessel took 500 barrels of mackerel each; both vessels were confined to the same market, where they sold at the same price. One had to pay a duty of \$1,000, while the other had not to do so. Who, then, paid the \$1,000? Most certainly not the purchaser or consumer, but the poor, hard worked fishermen of this Dominion—for this \$1,000 was deducted from his account of sales. Those who contend that in this case the consumer paid the duty ought to be able to show that if the duty were taken off in the United States the selling price there would be reduced by

the amount of the duty. There was nothing in the nature or existing circumstances of the trade to cause any person who understands to believe that this would be the case; and, therefore, it would be seen that at present our fishermen labored under disadvantages which made it almost impossible for them to compete with their rivals in the United States, and that the removal of the duty, as proposed by this treaty, would be a great boon, and enable them to do a good business where they now were but struggling or doing a losing trade.

And the next speaker, after depicting in glowing terms just the condition of prosperity that the island of Prince Edward is enjoying now, as a result sure to follow from the ratification of the treaty, goes on to say that no men can compete with the provincial fishermen on equal terms, because their fishing is at their own door, and asserts that only an equal participation in the markets of the United States is necessary to give them the monopoly of the whole business.

Another speaker tells the story of the fleet of Nova Scotia fishing-vessels built up under the Reciprocity Treaty, which were forced to abandon the fishing business when the Reciprocity Treaty ended and a duty was put upon fish. Somewhere I have seen it stated that vessels were left unfinished on the stocks when the Reciprocity Treaty terminated, because, being in process of construction, to engage in the fishing business, their owners did not know what else to do with them.

Are we to be told that these men were all mistaken—that the consumer paid the duty all along—that no benefit was realized to the provincial fishermen from it? Why, even the Reply to the British Case concedes that when the duty existed some portion of it was paid by the provincial fishermen. It is to be remembered, too, gentlemen, that in considering this question of what is gained by free markets, you are not merely to take into account what in fact has been gained by the change, but the people of these provinces have acquired, for a term of twelve years, a vested right to bring all descriptions of fish, fresh or salt, and fish-oil, into our markets. Before the expiration of that time the existing duties might have been increased in amount; duties might have been put upon fresh fish; there was nothing to prevent this, and there was every reason to anticipate that if a harsh and hostile course had been pursued towards American fishermen, with reference to the inshore fisheries, there would have been duties, more extensive and higher than ever before, put upon every description of fish or fish-product that could possibly go to the United States. They gained, therefore, our markets for a fixed term of years, as a matter of vested right. How much their industry has been developed by it, their own witnesses tell us.

Now, gentlemen, if you could consider this as a purely practical business question between man and man, laying aside all other considerations—a question to be decided, pencil in hand, by figures—does anybody in the world doubt which is the greatest gainer by this bargain, the people of this Dominion having the free markets of the United States, or a few Gloucester fishermen catching mackerel within three miles of the shore, in the bend of the island, or for a week or two off Margaree? Those are the two things.

But I am not afraid, gentlemen, to discuss this question upon abstract grounds of political economy. I said there was no school of political economy according to which there was any such rule as that the consumer paid the duties. I must trouble you with a few extracts from books on that subject, wearisome as such reading is. Here is what Andrew Hamilton said, one of the disciples of Adam Smith, as long ago as 1791:

If all merchants traded with the same rate of duty they experience the same general advantages and disadvantages; but if the rate of a tax was unequal, the inequality unavoidably operated as a discouragement to those whom the higher tax affected

If one merchant was charged two shillings for the same species and quantity of goods on which another was charged only one shilling, it was evident that he who paid the highest duty must either lose the market, or smuggle, or sell his goods at an inferior profit. In other words, the difference in the rate of the tax would fall on the merchant liable to the highest duty and in cases of competition would always drive him out of the market. (p. 187.)

Then he goes on to say, on a subsequent page :

We may suppose a tax to be laid on in a department where, in the progress of wealth, profits were about to be lowered. If this tax was just equal to the reduction of the rate of profit that was about to take place, then common rivalry would induce the dealers to pay the tax and yet sell their goods as heretofore. (p. 217.)

He says further, on page 242:

Let us suppose a brewer to have one thousand barrels of strong ale upon hand. That a tax of one shilling per barrel is laid upon the ale, and that he may raise the price just so much to his customers, because they will readily pay the tax rather than want the ale. In this case, the brewer would be directly relieved from the tax. But if, on the other hand, he found after advancing the tax he could not raise the price of his ale above what it was formerly, and yet was under a necessity of disposing of it, though this may drive him from the market or unite brewers to stint the supply, so as to bring up the price, on some future occasion, yet in the mean time the trader would suffer; nor would he immediately derive, by any of his ordinary transactions, an effectual relief from the loss he had thus sustained by paying the tax. When, therefore, a trader advances a tax upon a great quantity of goods, he can receive no effectual relief from such a tax, but in a rise of the price of the article, adequate to the tax which he has advanced. * * *

It follows that all speculations whose object is to show on what fixed fund or class taxes must fall are vain and unsatisfactory, and will be generally disproved (as they almost always have been) by experience. (p. 257.)

A dealer who can evade such a tax will soon possess a monopoly if the tax is paid by his competitors. It will be to him a kind of bounty for carrying on his business, and this must drive his competitors either to evade the tax also or to relinquish the employment. (p. 288.)

I am almost disposed to hand to the reporters the extracts, rather than trouble you to read them; and yet I feel it my duty to press this subject, because, if I am right in it, it is decisive.

SIR ALEX. GALT. I think you had better read them.

MR. FOSTER. Mill says, and he is the apostle of free trade, in volume 2 of his "Political Economy," page 113:

If the north bank of the Thames possessed an advantage over the south bank in the production of shoes, no shoes would be produced on the south side; the shoemakers would remove themselves and their capitals to the north bank, or would have established themselves there originally, for, being competitors in the same market with those on the north side, they could not compensate themselves for their disadvantage at the expense of the consumer; the amount of it would fall entirely on their profits, and they would not long content themselves with a smaller profit, when by simply crossing a river they could increase it.

Apply that statement to the evidence in this case, and remember how, when the Reciprocity Treaty ended, the fishermen of Nova Scotia and Prince Edward Island took refuge on board United States vessels, for the purpose, as one of the official documents that I read from yesterday says, of evading the duty. It might be a curious question, if it were important enough to dwell upon it, whether, in assessing against the United States the value of the privilege of fishing inshore, you were or were not to take into account the fact, that half of the people who fish on shares in United States vessels are subjects of Her Majesty, and having disposed of their half of the fish, having paid half of the fish for the privilege of using the vessel and its equipment, they sell the other half of the fish, and bring the proceeds home; and whether it is a just claim against the United States if British subjects go in United States vessels, to require the United States to pay money because they do so.

Mill says in another passage, in volume 2, page 397 :

We may suppose two islands, which, being alike in extent, in natural fertility, and industrial advancement, have up to a certain time been equal in population and capital, and have had equal rentals, and the same price of corn. Let us imagine a tithe imposed in one of these islands, but not in the other. There will be immediately a difference in the price of corn, and therefore, probably, in profits.

I am almost through with this tediousness, but there is a good Scotch book on political economy, by John McDonald, of Edinburgh, published in 1871—and we have always had sound political economy from Scotland—from which I must read a few lines :

In the third place [McDonald says, on page 351], it may be possible to impose custom duties which will permanently be paid, either wholly or partly, not by the consumers but by the importers or producers. Assume that we draw our stock of sugar from a country engaged in the growth of sugar, and capable of selling it with profit to us some shillings cheaper than any other country can, the former will of course sell the sugars to us at a price slightly below what would attract other competitors. Impose a duty of some shillings a cwt., without altogether destroying the peculiar advantages of the trade, while we will pay no dearer for our sugar, the importers will pay the tax at the expense of their profits. If we add to these considerations the difficulty of ascertaining the actual incidence of many such taxes, distrust of sharp contrasts between direct and indirect taxes will be inspired.

Customs duties sometimes fall on the importer, not on the consumer. And if this were a common occurrence, it might seriously impair the doctrine that protective duties are the taxing of the home consumer for the sake of the home producer. But this incidence is confined to the following rare circumstances : If the sole market open to the importer of the staple goods of one country is the country imposing the duties. Secondly, if the other market open to him was so distant or otherwise disadvantageous that it would be preferable to pay the tax ; or, thirdly, if the only available place for procuring commodities of vital moment to the importing country, was the country imposing the duty. Wherever the profits are such as to admit of a diminution without falling below the usual rate, it may be possible for a country to tax the foreigner (p. 393).

I was interested some years ago in an article that I found translated from the *Revue de Deux Mondes* of the 15th of October, 1869, on "Protection and Free Trade," by a gentleman of the name of Louis Alby. I do not know who he is, but on pages 40 and 41, of the pamphlet, he not only states the doctrine, but he illustrates it :

The free-traders believe—and this is the foundation of their doctrine—that when the import duty on an article of foreign merchandise is reduced, this reduction of taxes will at once cause an equal diminution in the price of the merchandise in the market and an equal saving to the purchaser. In theory this consequence is just, in practice it never takes place. If the reduction is considerable, a part, and that far the smallest, profits the consumer ; the larger portion is divided between the foreign producer and the several intermediaries. If the reduction is small, these last entirely absorb it, and the real consumer, he who makes the article undergo its last transformation, is in no wise benefited. The real consumer of wheat is neither the miller nor the baker, but he who eats the bread. The real consumer of wool is neither the draper nor the tailor, but he who wears and uses the clothes.

This discrepancy between the variations of custom-house duties and the selling prices cannot be denied, and since the commercial treaty the experiment has been tried. All prohibitions have been removed and all duties reduced ; but what article is there the price of which has been sensibly lowered for consumption ? When economists demanded the free importation of foreign cattle, they hoped to see the price of meat lowered, and for the same reason the agriculturists resisted with all their strength.

As soon as the duties were removed, the graziers from the northern and eastern departments hastened to the market on the other side of the frontier ; but the sellers were on their guard and held firm, and, competition assisting them, prices rose instead of falling. All the advantage of the reduction of duty was for foreign raisers of cattle, and meat is dearer than ever. The same result followed in reference to the wools of Algiers ; and on this point I can give the opinion of the head of one of the oldest houses in Marseilles, an enemy, moreover, to protection, like all the merchants of seaport towns : "When the duties on Algerian wools were removed," he said to me, "we supposed that this would cause wool to sell cheaper in France, but the contrary happened. There was more eagerness for purchasing in Africa ; there was more competition, and the difference in the duties was employed in paying more for the wool to make sure of

getting it. *It is not, then, the French manufacturer who has profited by the removal of duties ; it is the Arab alone.*" Thus the interest of the consumer, about which so much noise is made, far from being the principal element in the question, only plays a secondary part, since the reduction in the tariff only profits him in a small measure.

Now, we are in a condition to understand precisely the meaning of what one of our witnesses said, Mr. Pew, that the price of mackerel to the man who bought one mackerel at a time and ate it had not changed for ten years; that it was a very small purchase; that the grocer who sold it to him would not lessen the price if mackerel went down, and would not raise the price if mackerel went up; that it kept to him uniform; so that, after all, the question has been a question where the greater or less profit accrued to parties who handled the mackerel.

If ever there was a case where it was impossible to transfer a duty once paid by a man who catches fish and brings it to market so that its incidence would fall on the consumer, it is the one we are dealing with. Why so? You cannot raise the price of mackerel very much, because its consumption stops when you get above \$8 or \$10, at the highest, a barrel. People will not eat it in larger quantities unless they are induced to do it because it is the cheapest procurable food. That is one reason why the duty cannot be put on to the price. There is another reason why it cannot be added to the price—a perfectly conclusive one; and that is that not more than one fourth or a less part of the supply (it has been assumed in the question as one-fourth) is imported and subject to the duty. I do not care what fraction it is, whether one-third, one-fourth, or one-fifth, not more than a small fraction of the mackerel that is in the markets of the United States at any time comes from the provinces; and in order to get the price up to a point that will reimburse the provincial fisherman who has paid a duty you must raise the price of all the mackerel in the market, must you not? That is perfectly plain. If there are between three and four hundred thousand barrels of mackerel in the United States, and thirty, forty, fifty, sixty, seventy, eighty, or a hundred thousand of them are taxed \$2 a barrel, do you think it is going to be possible to raise, by the tax on the provincial catch, the price of the whole production in the market? If that could be done it might come out of the consumer, and then it would be a benefit to our fishermen and an injury in the end to our consumers. But it cannot be done. The price cannot be raised. The fraction is not large enough to produce any perceptible influences upon it. So the result has always been, and they know that it was so before and must be so again, that such a duty cuts down their profits to the quick. It cuts them down so that the business must be abandoned, and take away the United States market, as you would take it away if a higher tariff was imposed, and the fishing business of the provinces would gradually die out of existence. It is not a case—let me repeat it, because there has been so much apparent sincerity in the belief that that tax would come out of the consumer—it is not the case of a tax put upon the whole of the commodity, or the greater part of the commodity, but it is a tax put upon the smaller part of the commodity in the only market to which both producers are confined; and you might just as well say, if two men made watches, one here and one in Boston, which were just exactly alike, and their watches were both to be sold in Boston, that you could put a tax of twenty-five or fifty per cent. on the importation of the Halifax watch into Boston and then raise the price.

The only instance in which the imposition of a tax upon a part of the production of an article results in raising the price of the whole, is where the demand is active, where the supply is inadequate, and where

there is no equivalent that can be introduced in the place of the taxed article. It might just as well be said that a wood lot ten miles from town is worth as much as a wood lot five miles from town. Wood will sell for a certain price, and the man who is the farthest off, and who has the greatest expense in hauling the wood to market, is the man who gets the least profit.

It was estimated in the debates on the Treaty of Washington that the tax on mackerel at that time amounted to fifty per cent. It was truly stated to be a prohibitory duty. You will remember that Mr. Hall has also given you a practical view of this subject. Mr. Hall, Mr. Myrick, and Mr. Churchill located on Prince Edward Island. To be sure it is their misfortune not yet to be naturalized British subjects. Detract whatever you choose from the weight of their evidence because they are Americans, but give to it as much as its intrinsic candor and reasonableness require at your hands. What do these gentlemen tell you of their practical condition? Mr. Hall says that when the duties were put on, at first, the people on the island were helped by a good catch, a good quality, and by a short catch in the United States, and by the condition of the currency, but when they began to feel the full effect of the imposition of the duties they were ruined. His partner confirms the same story. Mr. Churchill, the other man, whose business it is to hire by the month the fishermen of the island, and pay them wages, says he could not afford to hire the men if a duty was put up on the fish. Do you suppose he could? The fish landed on the shore of Prince Edward Island are worth \$3.75 a barrel; that is what they are sold for there. The fishermen earn for catching them from \$15 to \$25 a month. Put a tax of \$2 on to \$3.75 worth of mackerel and can there be any doubt of the result?

If this subject interests you, or if it seems to you to have a bearing upon the result, I invite your careful attention to the testimony of Hall, Myrick, and Churchill. Do they not know what the result of putting a tariff upon their mackerel would be? Do not the people of Prince Edward Island know? If they have been stimulated to a transient, delusive belief that they may in some way get the control of the markets of the United States for the eighty or ninety thousand barrels which, at the utmost, is produced in the provinces and put the price up as high as ever they please, do you think that that delusion will be dissipated, and that their eyes will be most painfully opened, if it ever comes to pass that a duty shall be reimposed?

It may be said that this question of duties is a question of commercial intercourse, and that it is for the benefit of all mankind that there should be free commercial intercourse, no matter whether one side gains and the other side loses or not; no matter where the preponderance of advantage is, we believe in untrammelled commercial intercourse among the whole human family. I am not at all disposed to quarrel with that doctrine. But that is not the case we are trying here. We are trying a case under a treaty where there has been an exchange of free fish against free fishery, and you are to say on which side the preponderance of benefits lies. We have no right, then, to indulge theories as to universal freedom of trade, because we are bound by a charter under which we are acting. You are to have regard to this question, so the treaty says. Everybody has had regard to it since it first began to be agitated in both countries. Statesmen, public writers, business men—they have all considered it of the utmost consequence, and certainly this Commission, enjoined in the treaty to have regard to it, are not going to disregard it and leave it out of consideration.

Now, am I not right in saying that the whole value of whatever fish we catch in the territorial waters of these provinces, when landed on the shores of the provinces, or landed on the decks of our vessels, is of far less pecuniary magnitude than the direct pecuniary gain resulting from free importation into our markets? And that is a gain that is constantly increasing. Twice as large a quantity has gone from Nova Scotia and Prince Edward Island to Boston this year as went last year up to the same date, and, making a moderate allowance for the vicissitudes of the business, and for one year being a little worse than another, there has been a continued development of the fishing business and fishing interests of these provinces; and what has it sprung from? Do not these gentlemen understand the sources of their own prosperity? Do they not know when they speak of the business having developed that it is the market that has developed the business? They cannot eat their mackerel; they have too good taste to desire to eat them, apparently, after they are salted. The only place where they are able to dispose of them is in the United States. There is no evidence that the price of the fish has been lowered to the consumer by the circumstance that any more comes from the provinces than did formerly, when the duty was imposed upon it. The price to the actual consumer has remained the same. If it could be shown that there has been a trifling reduction to the consumer, is that of any consequence compared with this direct and overwhelming advantage which the provincials gain? Why, it is not only in this fish business that the control of the United States markets bears with such tremendous power upon the productions of the Dominion. In 1850, when the subject of reciprocity was being discussed, Mr. Crampton, then British minister at Washington, requested Hon. William Hamilton Merritt, a Canadian of distinction, to prepare a memorandum on the subject, which I have here before me. He is speaking of the effect of duties in the United States on Canadian products generally. He says:

The imports from Canada since 1847 have in no instance affected the market in New York. The consumer does not obtain a reduction of prices; the duty is paid by the grower, as shown by the comparative prices on each side of the boundary, which have averaged in proportion to the amount of duty exacted.

The Canadians, in their fishing industry, as I have said over and over again, have very great natural advantages over the fishermen of the United States in the cheapness with which they can build their vessels and hire their crews, and the cheapness of all the necessaries of life. This increased cheapness is virtually a bounty upon the Canadian fisheries. It gives them the effect of a bounty as compared with United States fishermen. While there was a duty upon imported fish in the United States it counteracted that indirect bounty. Now that the duty has been taken away, this immense development of the fishing interests of the provinces, of which they are so proud, and of which they have said so much, has taken place, and out of this salt-mackerel business it seems to me that they are quite sure eventually to drive the American fishermen. Everybody is going into the business, in Prince Edward Island, as their witnesses say. Out of three hundred fishermen from one port who used to be in our vessels, and who have returned, hardly twelve are going back to the United States. They are going to have a monopoly of this branch of the fishing industry. It has been of great value to them; it will continue hereafter to be of greater value to them; and it is a value that no vicissitudes in the business are likely to take from them, because there is a certain quantity of mackerel which they will be able to catch near home which they can afford to sell in the mar-

kets of the United States at low prices, and from which they cannot fail to derive a very great and permanent advantage.

Gentlemen of the Commission, I have tried to make a business speech on a business question, and I shall spare my own voice and your patience any peroration. I hope I have established to your satisfaction that the exchange of the right to the inshore fisheries for the free markets of the United States leaves the preponderance of benefits and advantages largely on the side of the Canadians. Such certainly is the belief of the Government and people of the United States. A declaration to that effect, that is, a declaration that no money award ought to be made, in our opinion is required by the evidence, and by every consideration of justice. If this be so, the consequences are immaterial to us, but I cannot refrain from saying that, though such a result might cause a little transient disappointment to a few individuals, it would, in my judgment, tend more than anything else to establish the permanent relations between the United States and the Dominion of Canada on a footing of justice and peace, friendship and commercial prosperity. We are neighbors in geographical position, we are sprung from the same common origin, we speak the same language, have inherited the same literature, to a large extent have common traditions and history; we live under very similar laws and free institutions; we are two great, free, energetic, prosperous countries, which cannot help respecting each other, and though the surface may be occasionally for a short time ruffled to a trifling degree, yet in the depths of the hearts of the people of each country they entertain for each other a sincere and profound good will.

V.

CLOSING ARGUMENT OF HON. WILLIAM H. TRESCOT, ON BEHALF OF THE UNITED STATES.

MR. PRESIDENT AND GENTLEMEN OF THE COMMISSION: I am very glad that in this controversy there is one point upon which we are all agreed, and that is, the importance of settling it, of having a source of constant irritation dried up forever, or, better still, if it be possible, of having it converted into a spring of mutual and perpetual benefit. Whatever, therefore, may be the direct practical result of this investigation, we shall have achieved no small or inconsiderable thing, if we have learned at its close to appreciate each other's rights and interests fairly, justly, and kindly.

The best way to secure that end is to speak on both sides with entire candor, to state our respective views as clearly and as strongly as we can, and then to leave it to the impartial judgment of the Commission to balance our calculations, compare our pretensions, and estimate at their true value the claims which we have submitted, only asking them to remember that they do not sit here as arbitrators to compromise rival interests, but as the appraisers of certain values, as the judges of the correctness of certain facts and figures.

I conceive it to be the duty of every one participating in this investigation to do all he can to aid the Commission in reaching an agreement, and that you will arrive at some sound and satisfactory conclusion, I sincerely hope; for, during the whole of our examination, I confess I have never looked up at the picture of His Majesty George III, which hangs behind the president's chair, without feeling that it is not credit-

able that two great and kindred nations should, to-day, be still angrily discussing a question which he thought he had finally settled with Franklin and Adams, with Jay and Laurens, an hundred years ago, when he recognized the independence of the United States, with all its consequences.

You have been told, and with truth, by the representatives of both contestants, that the Treaty of 1871 is the charter of your authority. To ascertain, therefore, the extent of the powers which have been given and the character of the duties which have been imposed, we must go to the Treaty of Washington. But we cannot go to that treaty alone. The Treaty of 1871 is but one phase of the fishery-negotiations. It was a marked change from the condition of things in 1866; that was a change from the condition of things in 1854; that again was a large departure from the Convention of 1818, and that convention was in itself a very great change from the Treaty of 1783.

It is simply impossible to understand the meaning of the Treaty of 1871 correctly without reference to the history of those negotiations, and the positions which have been taken, and which have been abandoned or maintained by the respective governments.

And the British case, as filed, distinctly recognizes this necessity, not only in the elaborate history of those negotiations with which it prefaces its argument, but in the central assumption of its formal contention, viz, that the Treaty of 1818 is part and parcel of the Treaty of 1871.

These negotiations, fortunately, lie within a compact and manageable compass, and it is possible, I think, briefly and clearly to develop their history and sequence.

The Treaty of 1783, the Convention of 1818, the Reciprocity Treaty of 1854, and the Treaty of Washington of 1871, are landmarks in our navigation over these rather troubled waters. If I may borrow a figure from our subject, I will endeavor, in my argument, to keep well within the three mile limit, not to run between headland and headland, unless I am driven by extraordinary stress of weather, and even then I shall not enter and delay in every port that lines the coast for shelter, food, or fuel, unless the persuasive rhetoric of my friend from Prince Edward Island should detain me in the magnificent harbors of Mulpeque and Casumpeque, or my friend from Newfoundland should toll me with "fresh squid" into the happy and prosperous regions of Fortune Bay.

But before I go into the discussion of these treaties, I wish to ask your consideration to some observations on the general meaning and proper interpretation of the Treaty of 1871, in order that they may be out of the way of the main argument. And first I will ask you to carry with you throughout the discussion a fact so obvious that I would not have referred to it at all had not the whole argument of the British Case entirely ignored it. That fact is simply that this Convention, and the treaty upon which it is founded, are transactions between the United States on the one side and Great Britain on the other. Let me ask your attention to the twenty-second article of the Treaty of 1871:

Inasmuch as it is asserted by the *Government of Her Britannic Majesty* that the privileges accorded to the citizens of the United States under Article XVIII of this treaty are of greater value than those accorded by Articles XIX and XXI of this treaty to the *subjects of Her Britannic Majesty*, and this assertion is not admitted by the Government of the United States, it is further agreed that Commissioners shall be appointed to determine, having regard to the privileges accorded by the United States to the *subjects of Her Britannic Majesty*, as stated in Articles XIX and XXI of this treaty, the amount of compensation," &c., &c.

Now, who are the subjects of Her Britannic Majesty? Are they only the inhabitants of the Dominion of Canada? The fishermen of the

maritime provinces? The boatmen of the bend of Prince Edward Island? The herring and squid catchers of Newfoundland? We have been told in prose and poetry that the dominion of Her Britannic Majesty is one on which the sun never sets, and it is to the subjects of this dominion, in its widest extent, that we have given the privileges granted by the United States in this treaty. And I ask if, in equalizing this privilege, the *value* of the privilege is one of the elements of your calculation, is not the *extent* to which those privileges are opened an equal subject of valuation?

I know what my friends will say. They will say, of course, "It is obvious that it is neither possible nor probable that any of the subjects of Her Britannic Majesty will use these privileges except the inhabitants of the Dominion. Well, I do not know that my friends have the right to assume any such ground, after the brilliant exhibition of their closing testimony. Do you not recollect what the confidential scientific adviser of the gentlemen on the other side told you, that the time was coming, had come, when the fishing industry of the world would be a common fishery to the whole world; when a skipper would go out of harbor with an orographic chart of the coast in one hand, and a thermometer in the other, to measure the variations of zone-temperature; when he would, day by day, learn the condition of the controversy between the Labrador Arctic current and the Gulf stream; when, by a system of telegraph and signal stations, there would be a new meaning given to the Scripture, "Deep calleth unto deep"; that Labrador would speak to Newfoundland, and Newfoundland to Nova Scotia, and Nova Scotia to Cape Cod; and that wherever the fishes were, there would the fishermen of the world be gathered together! I cannot accept that prophecy in all its fullness. I know it has been said very often that fish diet is a wonderful stimulant to the mental powers. I think since we have been discussing this case, we have found that mackerel, especially, has a most wonderful effect upon the arithmetical faculties of the intellect; that it stimulates the imagination until it sets all the powers of calculation at defiance; and I am satisfied that the princely fortune that was supposed to have been made by the boy in the Arabian fable out of his basket of eggs, which were unfortunately destroyed before he realized it, is nothing compared with the profits that my friend from Prince Edward Island, through cross examination, can develop from an ordinary catch of four hundred barrels of mackerel. I presume that my friends will not allow me to assume, even upon their own testimony, that this millennial fishery will be in perfect working order until the Treaty of 1871 has expired, and they will therefore insist that it is neither possible nor probable that any of the subjects of Her Britannic Majesty, except the inhabitants of the Dominion, can ever use these privileges. Suppose I grant that, what then? I find in the British Case a very elaborate statement of a very sound principle, page 34:

It is possible, and even probable, that the United States fishermen may avail themselves of the privilege of fishing in Newfoundland inshore waters to a much larger extent than they do at present; but even if they should do so, it would not relieve them from the obligation of making the just payment for a right which they have acquired, subject to the condition of making that payment. The case may not be inaptly illustrated by the somewhat analogous one of a tenancy of shooting or fishing privileges; it is not because the tenant fails to exercise the rights which he has acquired by virtue of his lease that the proprietor should be debarred from the recovery of his rent.

I think it will take more than the very large ability and ingenuity of the British counsel to show any difference between the two cases. If the American fisherman is bound to pay for the inshore fisheries of Newfoundland, which he does not use, on the principle of tenancy, why

should not the British subject pay for the inshore United States fisheries which he does not use?

Mr. THOMSON. I understand you admit the principle.

Mr. TRESCOT. I am using it as a reply to this argument. I am going to show you that my argument is based on yours; and I contend, therefore, on the very principle that you state.

"It is not because the tenant fails to exercise the rights which he has acquired by virtue of his lease that the proprietor should be debarred from the recovery of his rent." On this principle, we claim that all the subjects of Her Britannic Majesty are tenants, under the treaty, and must pay for the privilege whether they use it or not; and you are bound to take that into consideration in establishing the value of the privileges exchanged.

Further, if this is a treaty between Great Britain and the United States, it cannot be converted into a treaty between the United States and Canada. This Commission cannot alter it or supplement it. Certain specified provisions in the treaty it can execute, but it cannot amend its errors or correct its faults. If in that treaty the British Government has compromised or endangered the interests of the colonies, much as it is to be regretted, you have no power to undo the work; it is a matter with which the Commission has nothing to do.

Upon the negotiation of the Treaty of 1871, the most correct and influential representative of public opinion in England, the London Times, used the following language:

We watched with some uneasiness the repeated splutters of bad feeling between the fishermen of New England and the people of the maritime provinces, because we could never be certain that an ugly accident might not some day force us, much against our will, to become the champions of a quarrel we could only half approve. It is very easy, therefore, to understand with what motives our ministers suggested a Commission, and with what readiness they yielded to the hint that it should be allowed to settle all subjects of difference between the two countries. Lord Derby has repeatedly blamed their eagerness, and the American Government could not but be sensible of the advantage they obtained when the Commissioners arrived at Washington, bound to come to some settlement on the points in dispute. It is true that one of the Commissioners was the prime minister of Canada; but against this circumstance must be set the facts that the other four approached their work from an English point of view, that the Commissioners, as a body, were instructed from day to day, and, we may almost say, from hour to hour, by the English Cabinet, and their work was done with an eye to the approval of the English people. It was inevitable that the result of their labors should not satisfy the inhabitants of the Dominion. We are far from saying that the Commissioners did not do their best for Canadian interests, as they understood them; but it was not in human nature for them or their instructions to be to Canada what they are to England; and, as the treaty was conceived for the purpose of removing the present and contingent liabilities of England, it was agreed upon as soon as it was believed that these liabilities were settled.

If this is so, then surely this Commission was not appointed to correct "the inevitable" results of the treaty which created it.

The colonial authorities recognized this view. When that treaty was formed, Earl Kimberley, writing to the colonial governor, made this statement, in a paragraph which is not too long to read, for I do not mean to trouble you with a great many quotations. It is a statement of the secretary of state for the colonies to the Governor-General, dated "Downing street, 17th June, 1871," and published at Ottawa:

The Canadian Government itself took the initiative in suggesting that a joint British and American commission should be appointed, with a view to settle the disputes which had arisen as to the interpretation of the Treaty of 1818. But it was certain that, however desirable it might be, in default of any complete settlement, to appoint such a commission, the causes of the difficulty lay deeper than any question of interpretation, and the mere discussion of such points as the correct definition of bays could not lead to a really friendly agreement with the United States. It was necessary, therefore, to endeavor to find an equivalent which the United States might be willing

to give in return for the fishing privileges, and which Great Britain, having regard both to the imperial and colonial interest, could properly accept. Her Majesty's Government are well aware that the arrangement which would have been most agreeable to Canada was the conclusion of a treaty similar to the Reciprocity Treaty of 1854, and a proposal to this effect was pressed upon the United States Commissioners, as you will find in the 36th protocol of the conferences. This proposal was, however, declined, the United States Commissioners stating that they could hold out no hope that the Congress of the United States would give its consent to such a tariff amendment as was proposed, or to any extended plan of reciprocal free admission of the products of the two countries. The United States Commissioners did, indeed, propose that coal, salt, and fish should be reciprocally admitted free, and lumber after the 1st of July, 1874; but it is evident that, looked at as a tariff arrangement, this was a most inadequate offer, as will be seen at once when it is compared with the long list of articles admitted free under the Reciprocity Treaty. Moreover, it is obvious, from the frank avowal of the United States Commissioners, that they only made this offer because one branch of Congress had recently more than once expressed itself in favor of the abolition of duties on coal and salt, and because Congress had partially removed the duty from lumber, and the tendency of legislation in the United States was toward the reduction of taxation and of duties, so that to have ceded the fishery rights in return for these concessions, would have been to exchange them for commercial arrangements which, there is every reason to believe, may before long be made without any such cession, to the mutual advantage of both the Dominion and the United States; and Her Majesty's Government are bound to add that while, in deference to obtain a renewal in principle of the Reciprocity Treaty, they are convinced the establishment of free trade between the Dominion and the United States is not likely to be promoted by making admission to the fisheries dependent upon the conclusion of such a treaty; and that the repeal by Congress of duties upon Canadian produce, on the ground that a protective tariff is injurious to the countries which imposes it, would place the commercial relations of the two countries on a far more secure and lasting basis than the stipulations of a convention framed upon a system of reciprocity. Looking, therefore, to all the circumstances, Her Majesty's Government found it their duty to deal separately with the fisheries, and to endeavor to find some other equivalent; and the reciprocal concession of free fishery, with free import of fish and fish-oil, together with the payment of such a sum of money as may fairly represent the excess of value of the Colonial over the American concession, seems to them to be an equitable solution of the difficulty.

It is perfectly true that the right of fishing on the United States coasts, conceded under Article XIX, is far less valuable than the right of fishing in colonial waters, conceded under Article XVIII to the United States; but, on the other hand, it cannot be denied that it is most important to the colonial fishermen to obtain free access to the American market for their fish and for fish-oil; and the balance of advantage on the side of the United States will be duly redressed by the Arbitrators under Article XXII. In some respects a direct money-payment is perhaps a more distinct recognition of the rights of the colonies than a tariff concession, and there does not seem to be any difference in principle between the admission of American fishermen for a term of years, in consideration of the payment of a sum of money in gross, and their admission under the system of licenses, calculated at so many dollars per ton, which was adopted by the colonial government for several years after the termination of the Reciprocity Treaty. In the latter case, it must be observed, the use of the fisheries was granted without any tariff concessions whatever on the part of the United States, even as to the importation of fish.

Canada could not reasonably expect that this country should, for an indefinite period, incur the constant risk of serious misunderstanding with the United States, imperiling, perhaps, the peace of the whole Empire, in order to endeavor to force the American Government to change its commercial policy; and Her Majesty's Government are confident that when the treaty is considered as a whole the Canadian people will see that their interests have been carefully borne in mind, and that the advantages which they will derive from its provisions are commensurate with the concessions which they are called upon to make. There cannot be a question as to the great importance to Canada of the right to convey goods in bond through the United States, which has been secured to her by Article XXIX; and the free navigation of Lake Michigan, under Article XXVIII, and the power of transshipping goods, under Article XXX, are valuable privileges which must not be overlooked in forming an estimate of the advantages which Canada will obtain. Her Majesty's Government have no doubt that the Canadian Government will readily secure to the citizens of the United States, in accordance with Article XXVII, the use of the Canadian canals, as by the liberal policy of the Dominion these canals are already opened to them on equal terms with British subjects; and they would urge upon the Dominion Parliament and the legislature of New Brunswick that it will be most advisable to make arrangement as to duty on lumber floated down the St. John River, upon which the execution of Article XXX, as to the transshipment of goods, is made contingent.

That is the view he took of that treaty. What was the view that the Canadian Government took of it? On page 47 of this same pamphlet will be found the reply of a committee of the Privy Council to that letter of the Earl of Kimberley, in which will be found this statement:

When the Canadian Government took the initiative of suggesting the appointment of a joint British and American Commission, they never contemplated the surrender of their territorial rights, and they had no reason to suppose that Her Majesty's Government entertained the sentiments expressed by the Earl of Kimberley in his recent despatch. Had such sentiments been expressed to the delegate appointed by the Canadian Government to confer with his lordship a few months before the appointment of the Commission, it would at least have been in their power to have remonstrated against the cession of the inshore fisheries, and it would moreover have prevented any member of the Canadian Government from acting as a member of the Joint High Commission, unless on the clear understanding that no such cession should be embodied in the treaty without their consent. The expediency of the cession of a common right to the inshore fisheries has been defended, on the ground that such a sacrifice on the part of Canada should be made in the interests of peace. The committee of the Privy Council, as they have already observed, would have been prepared to recommend any necessary concession for so desirable an object, but they must remind the Earl of Kimberley that the original proposition of Sir Edward Thornton, as appears by his letter of 26th January, was that a friendly and complete understanding should be come to between the two governments, as to the extent of the rights which belong to the citizens of the United States and Her Majesty's subjects respectively, with reference to the fisheries on the coasts of Her Majesty's possessions in North America.

Then there is a continuation of the argument.

Mr. THOMSON. Won't you read it?

Mr. TRESCOT. I will read it if you wish.

Mr. THOMSON. I would like to hear it, if it is not too much trouble to you.

Mr. TRESCOT. I will read it with great pleasure, although it does not bear upon the point I desire to present.

In his reply dated 30th January last, Mr. Secretary Fish informs Sir Edward Thornton that the President instructs him to say that "he shares with her Majesty's Government the appreciation of the importance of a friendly and complete understanding between the two governments with reference to the subjects specially suggested for the consideration of the proposed Joint High Commission." In accordance with the explicit understanding, thus arrived at between the two governments, Earl Granville issued instructions to Her Majesty's High Commission, which, in the opinion of the Committee of the Privy Council, covered the whole ground of controversy. The United States had never pretended to claim a right on the part of their citizens to fish within three marine miles of the coasts and bays, according to their limited definition of the latter term, and although the right to enjoy the use of the inshore fisheries might fairly have been made the subject of negotiation, with the view of ascertaining whether any proper equivalents could be found for such a concession, the United States was precluded by the original correspondence from insisting on it as a condition of the treaty. The abandonment of the exclusive right to the inshore fisheries without adequate compensation—mark that—the abandonment of the exclusive right to the inshore fisheries without adequate compensation was not therefore necessary in order to come to a satisfactory understanding on the points really at issue. The Committee of the Privy Council forbear from entering into a controversial discussion as to the expediency of trying to influence the United States to adopt a more liberal commercial policy. They must, however, disclaim most emphatically the imputation of desiring to impair the peace of the whole empire in order to force the American Government to change its commercial policy. They have for a considerable time back ceased to urge the United States to alter their commercial policy; but they are of opinion that when Canada is asked to surrender her inshore fisheries to foreigners, she is fairly entitled to name the proper equivalent.

I need not go any further. You can read it if you wish. Then, of course, Lord Kimberley replied to that communication. The reply it is not worth while to read. The Privy Council then replied to his strictures upon their opinion, and their communication is the point to which I wish to come.

In the course of the negotiations the United States Commissioners had offered as an equivalent for the rights of fishery to admit Canadian coal and salt, free of duty, and

lumber, after the 1st of July, 1874. This was deemed, both by the Imperial and Canadian Governments, an inadequate offer, and a counter proposition was made by the British Commissioners that lumber should be admitted free immediately, and that in consideration of the continued exclusion of cereals, live-stock, and other articles admitted under the treaty of 1854, a sum of money should be paid to Canada. The United States Commissioners not only refused the counter proposition, but withdrew their former offer, substituting one which the committee of council infer from the Earl of Kimberley's dispatch, was, in the opinion of Her Majesty's Government, more favorable to Canada than that which had been rejected as inadequate. Wide, however, as are the differences of opinion on this continent regarding the treaty, there is but one opinion on the point under consideration. It is clear that the United States preferred paying a sum of money to the concession of commercial advantages to Canada, and the committee of council feel assured that there is not a single member of the Canadian Parliament who would not have much preferred the rejected proposition to that which was finally adopted.

The committee of council cannot, with the Earl of Kimberley's dispatch before them, continue to affirm that Her Majesty's Government are of opinion that the cession of the fishery rights was made for an inadequate consideration, but they regret that they are themselves of a different opinion.

While still adhering to their expressed opinions as to the fishery articles of the Treaty of Washington, they are yet most anxious to meet the views of Her Majesty's Government, and to be placed in a position to propose the necessary legislative measures, and they will therefore proceed to make a suggestion which they earnestly hope may receive a favorable response.

The adoption of the principle of money payment in satisfaction of the expenses incurred by the Fenian raids would not only be of no assistance with reference to the treaty, but might lead to some complications. It is not improbable that differences of opinion would arise in the discussion of the details of those claims between the two governments which might lead to mutual dissatisfaction. Again, such a solution of the question would necessitate a discussion in the Imperial Parliament, in the course of which opinions might be expressed by members which might irritate the people of Canada, and might moreover encourage the Fenian leaders in the United States, who have not ceased their agitation.

There is, in the opinion of the committee of council, a mode by which their hands might be so materially strengthened that they would be enabled not only to abandon all claims on account of the Fenian raids, but likewise to propose, with a fair prospect of success, the measures necessary to give effect to those clauses in the Treaty of Washington which require the concurrence of the Dominion Parliament. That mode is by an imperial guarantee to a portion of the loan which it will be necessary for Canada to raise in order to procure the construction of certain important public works which will be highly beneficial to the United Kingdom as well as to Canada.

Now, I ask if, in the face of that official demand for a guarantee of that loan in compensation for the sacrifice of the fisheries, which demand was recognized as just, and granted by the British Government, it is possible to claim that those interests were not sacrifices which were compensated, or whether any construction is just, which, isolating the articles of this treaty, and converting it into a separate negotiation, determines that there were certain Imperial advantages gained by the British Government in return for the sacrifice of those fisheries, and then claims that that compensation should be made part and parcel of the consideration in a case like this? I beg you to understand distinctly that I do not contend that this Commission is not bound to equalize the two exchanges which have been committed to them. That is their duty. But I mean to say that, in making that equalization, they are bound to consider nothing but the specific value of the articles exchanged, and that the question whether or not equalization is compensation for any sacrifices made by the treaty is one with which they have nothing to do; the question which is submitted to them is the value, and nothing else, of the two exchanges. It is not the duty, nor is it within the power of this Commission, as the British counsel seem to suppose, to make the treaty of 1871 an equal treaty, but simply to equalize a specific exchange of values under a special provision of that treaty. It is precisely, as far as you are concerned, as if, instead of the exchange of fishing privileges, that treaty had proposed an exchange of territory. For instance, if that

treaty had proposed the exchange of Maine and Manitoba, and the United States had maintained that the value of Maine was much larger than Manitoba, and referred it to you to equalize the exchange. It is very manifest that to New England, for instance, it might not only be disadvantageous, but very dangerous; but the only question for you to consider would be the relative value of the two pieces of territory. So here, I do not care what the consequences may be. It may be that when you have equalized these privileges so as to make the exchange of privileges precisely even, that then the consequences of the exchange of fisheries might be the destruction of all the fisheries of Prince Edward Island, the entire destruction of the fishing industry of the maritime provinces. But that is a matter with which you have nothing to do. This is a consequence of the treaty, and not a consequence of the difference in value between the two articles of exchange which you are called upon to appraise.

The same principle would lead to this result also, that with the consequential profit or loss of the fisheries you have nothing to do. You have a right to measure the value of the fisheries as they are, and what they are, but you have no right to put into that estimate a calculation of the enterprise, industry, skill, and capital which the American puts into the fishery; that is, brains and money and experience, which is entirely foreign to the fishery, as a fishery. It is free to be employed anywhere else, and you have no right to calculate that. The fish in the water have a certain value, but the skill and capital and enterprise which are required to take them out does not belong to the fishery, as fishery; and it is not a matter that you have any right to take into calculation. Take, for example, the extraordinary principle that is stated in the British Case, on page 34:

A participation by fishermen of the United States in the freedom of these waters must, notwithstanding their wonderfully reproductive capacity, tell materially on the local catch, and, while affording to the United States fishermen a profitable employment, must seriously interfere with local success.

Is that a principle of calculation which you can only apply to a case like this? Was there ever a case of such absolute forgetfulness of that homely old proverb, over which every one of us has painfully stumbled in his walk through life, that "you cannot eat your cake and have it too"? Why, take that favorite and apt illustration of the British Case, a tenancy for shooting. If I exchanged a grouse moor in Scotland for a pheasant preserve in England, and my friend, Her British Majesty's Agent, was arbitrator to equalize their values, what would he think of the claim that the grouse moor was the more valuable, because I used a breech-loader, carried two keepers with extra guns, shot over dogs costing 100 guineas apiece, and bagged a hundred brace, where the other sportsman stuck to the old muzzle-loader, carried no keeper, shot over an untrained pointer, and only bagged twenty-five brace, or to the still more extraordinary complaint, that the freedom of the moor, notwithstanding its wonderful reproductive capacity, must tell materially on the local shooting, and while affording the lessee profitable and pleasant employment, "must seriously interfere" with the pot-shooting of the boys of the lessor's family? And this is just precisely the argument that our friends have made. They undertake, not to decide the value of the fishery, but they undertake to put into arbitration here what we do with mackerel-fishing in the bend of Prince Edward Island, but we are to pay for every dollar of capital and industry we employ, and for the men

employed, and the result of that combination is the money to which they are entitled.

So also with the consequential damages, with regard to the destruction of fish, trawling, seining, and all those things with which you have nothing to do. I think I can reply to the whole of that by a very pithy sentence, uttered by one of your citizens, who was very famous, the late Joseph Howe, in a speech made in my country in regard to the fisheries here. He said, "As for the destruction of the fisheries, when one thought that the roes of thirty cod supply all the waste of the American, British, and colonial fisheries, it was not worth while to discuss that question"; and I do not think it is, either. Because all those arguments apply to the treaty. They are very good reasons why the exchange never should have been made at all, why American fishermen never should have been admitted at all, why the treaty should never have been made; but they are arguments which cannot be employed in the consideration of the question submitted to you—the value of the fishery.

And now, with regard to this question of consequences, there is but one other illustration to which I will refer, and I will be done. I find, at the close of the British testimony, an elaborate exhibit of 166 lights, fog-whistles, and humane establishments used by United States fishermen on the coast of the Dominion, estimated to have cost in erection, from the Sambro light-house, built in 1758, to the present day, \$832,138, and for annual maintenance, \$268,197. I scarcely know whether to consider this serious; but there it is, and there it has been placed, either as the foundation for a claim, or to produce an effect. Now, if this Dominion has no commerce, if no ships bear precious freight upon the dangerous water of the gulf, or hazard valuable cargoes in the straits which connect it with the ocean, if no traffic traverses the imperial river which connects the Atlantic with the great lakes, if this fabulous fishery, of which we have heard so much, is carried on only in boats so small that they dare not venture out of sight of land, and the fishermen need no other guiding and protecting light than the light streaming from their own cabin-windows on shore; if, in short, this Dominion, as it is proudly called, owes nothing to the protection of its commerce and the safety of its seamen, if these humane establishments are not the free institutions of a wise and provident government, but charitable institutions, to be supported by the subscriptions of those who use them, then the Government of the Dominion can collect its \$200,000 by levying light-dues upon every vessel which seeks shelter in its harbors or brings wealth into its ports. But, if, in the present age of civilization, when a common humanity is binding the nations of the world together every day by mutual interests, mutual cares, and privileges equally shared, the Dominion repeals her light-dues, in obedience to the common feeling of the whole world, with what justice can that government ask you, by a forced construction of this treaty, to reimpose this duty, in its most exorbitant proportions and its most odious form, upon us, and upon us alone?

But that is not, perhaps, the question I should ask you. I should ask, and I do ask, where do you find, in Article 18 of the treaty, among the advantages which the Treaty of 1871 gives us, and authorizes you to value, any such "advantage" as the use of light-houses and fog-whistles? And if you decided, and properly decided, that you could not take into consideration the advantages of commercial intercourse, purchasing bait and supplies, and the privilege of transshipping, because they were not given by the treaty, identified as they were with

the use of the fishery, how can you be asked even to take this preposterous claim into consideration? If the principle laid down by the British Case (p. 13) is true, "It is submitted, that in order to estimate the advantages thereby derived, respectively, by subjects of the United States and of Great Britain, the following basis is the only one which it is possible to adopt, under the terms of the first portion of Article 18 of the Treaty of Washington of 1871, viz, that the value of the privileges granted to each country, respectively, by Articles 18, 19, and 21, of that Treaty, *which were not enjoyed under the 1st Article of the Convention of the 20th October, 1818*, is that which the Commission is constituted to determine"; if this principle of interpretation be true, how can such a demand be made until it is shown that, under the 1st Article of the Convention of 1818, the privilege of using the light-houses and fog-whistles, that is, the privilege of seeing a light or hearing a sound, was not enjoyed? Illiberal, unjust, and narrow as was the policy of that Convention, it has not yet been charged with so grievous an offense against humanity. It might stop our fishing, but it did not assume to stop our sight and hearing at the three-mile limit.

And in leaving this question of "consequences," I may say, in justification of the length with which I have dwelt on it, that this "consequential"—I might almost say "inconsequential"—reasoning pervades the whole British Case, and infects the whole cross-examination of counsel on the other side. The effort has been studiously made to create an atmosphere in with the uncertain and doubtful advantages of the treaty would loom out so largely as to deceive the inexperienced eye as to the exorbitant value that was sought to be attached to them.

I have but one other consideration to suggest before I come to the history of this question, and it is this: If you will examine the treaties, you will find that everywhere it is the "United States fishermen," the "inhabitants of the United States," the citizens of the United States who are prohibited from taking part in the fishery within the three-mile limit. Now, I say—remember, I am not talking about local legislation on the other side at all, I am talking about treaties—I say, there is nothing in any treaty which would forbid a Nova Scotian or a Prince Edward Island citizen from going to Gloucester, hiring an American vessel with an American register and coming within the three-mile limit and fishing—nothing at all. If such a vessel be manned by a crew half citizens of the United States and half Nova Scotians, who are fishing on shares, recollect, and who take the profits of their own catches, where is the difference? The United States citizen may violate the law, but are the citizens of Nova Scotia doing so? They are not the "inhabitants" or "fishermen of the United States" excluded from fishing within the three-mile limit. Take the analogy suggested by the British Case. Suppose, for instance, there was a law forbidding shooting in the Dominion altogether by any one not a citizen, might not a citizen of the United States lend a gun to a citizen of the Dominion who wanted to shoot game and pay him for the game that he shot? It comes to this, that when Nova Scotia fishermen fish in an American vessel within the three-mile limit, always supposing that they engage in the business on shares, they are simply using an instrument lawfully under the treaty, that the American part of the crew are using unlawfully—that is all. I do not press this legal view, because it is one which, one of these days, will have to be taken up and decided; I simply say that that is common-sense opinion, that if, out of 5,000 fishermen, 2,500 are British subjects, and fishing in American vessels, taking their own catches, making their own profits, in that case you cannot in equity

and justice consider that as part of the privilege given to the fishermen or inhabitants of the United States. I am glad I am furnishing my friends something to think of, even if it amuses them.

Mr. THOMSON. You are.

Mr. TRESCOT. I thought I was. The three points which I make, are these :

1. That in valuing the exchange of privilege, the *extent* to which the privilege is offered is a fair subject of calculation, and that a privilege opened to "all British subjects" is a larger and more valuable privilege than one restricted to only the British subjects resident in the Dominion.

2. That in valuing the exchange of privilege, only the direct value can be estimated, and *the consequences* to either party cannot be taken into account.

3. That so far as British subjects participate in the inshore fishery in United States vessels upon shares, their fishery is in no sense the fishing or fishermen of inhabitants of the United States.

With regard to the history of these treaties, there are two subjects in that connection which I do not propose to discuss at all. One is the headland question. I consider that the statement made by my distinguished colleague who preceded me has really taken that question out of this discussion. I do not understand that there is any claim made here that any portion of this award is to be assessed for the privilege of coming within the headlands. As to the exceedingly interesting and very able brief, submitted for the other side, I am not disposed to quarrel with it. At any rate, I shall not undertake to go into any argument upon it. It refers entirely to the question of territorial right, and the question of extent of jurisdiction—questions with which the United States has nothing to do. They have never been raised by our government, and probably never will be, because our claim to fish within the three-mile limit is no more an interference with territorial and jurisdictional rights of Great Britain than a right of way through a park would be an interference with the ownership of the property, or a right to cut timber in a forest would be an interference with the fee-simple in the soil.

Mr. THOMSON. Do you mean to say there would be no interference there?

Mr. FOSTER. Certainly not. It would be simply a servitude. You do not mean to say that my right to go through your farm interferes with the fee-simple of the property?

Mr. THOMSON. It does not take away the fee-simple, but it interferes with my enjoyment of the property.

Mr. TRESCOT. That is another question, because compensation may be found and given. I simply say that it does not interfere with the territorial or jurisdiction right. That is the view I take of it, at any rate, and I think I can sustain it, if it ever becomes necessary.

Then, with regard to the character of the Convention of 1818. I wish to put on record here my profound conviction that, by every rule of diplomatic interpretation and by every established precedent, the Convention of 1818 was abrogated by the Treaty of 1854, and that when that treaty was ended, in 1866, the United States and Great Britain were relegated to the Treaty of 1783 as the regulator of their rights. That proposition I will maintain whenever the proper time arrives. But certainly I am not at liberty to take that ground here at all, and for this reason: that by the action of the two governments and by the formal incorporation, so to speak, of the Treaty of 1818 in the Treaty of 1871, that treaty is made the practical rule of decision in this case; consequently, we have noth-

ing to do with that, except to say this: that the Treaty of 1818 depends for its validity and its existence upon the headland question; that the two stand or fall together; because the Convention of 1818 was a relinquishment of certain rights upon certain conditions, and if those conditions are not understood in the same sense by the parties to the contract, the contract ends or is to be submitted to arbitration. If, then, the treaty of 1871 should end, with nothing else to supply its place, it would be absolutely necessary either that the headland question should be settled or the Convention of 1818 should be considered as annulled.

I cannot enter into the history of the treaties as fully as I could wish.* The subject is not only one of great historical interest, but in certain contingencies would be of direct consequence. It cannot, however, be treated briefly, or without traveling too far from the immediate question at issue. I will, therefore, only summarize those conclusions which are relevant to the present investigation.

And I refer to them in this connection because, underlying the whole British Case, just like the consequential argument to which I have already referred, there runs the assumption that in all these transactions the policy of the United States has been one of encroachment and invasion, while the conduct of Great Britain has been that of generous concession. Never was there an assumption more entirely the reverse of historical truth.

The Treaty of 1783 ascertains and defines what were the original relations of the parties to this controversy. I need not read its provisions, but I do not think I will be contradicted when I say that they were simply the recognition of absolute and equal rights. The separation of the Colonies rendered necessary not only their recognition, but the definite and precise adjustment of their territories and possessions; and among the latter was recognized and described, not as a grant or concession, but as an existing right, the use of the fisheries, not only as they had been used, but as they ever should be used by British subjects. Reserving the territorial and jurisdictional rights on the adjacent shores to the owners of the land, the fisheries, the right to use the waters for the purpose of fishing, was made a joint possession.

At that time the only parties in interest were the citizens of the United States and the British owners of a few fishing settlements along the coasts. The parties who are now the real complainants were not then even in existence. Speak of encroachments! Encroachments upon whom? Why, in those days, where was Newfoundland, who comes here to-day as an independent sovereignty and invests her distinguished representative with a measure of ambassadorial authority? Not even a colony—a fishing settlement, owned by a British corporation, governed without law by any naval officer who happened to be on the coast with a marine spike in one hand and the articles of war in the other; no Englishman allowed to make a home on the island, and the number of women permitted to reside there limited, so as to prevent the growth

* The British Case, referring to the Treaty of 1783, says: "The rights conceded to the United States fishermen under this treaty were by no means so great as those which, as British subjects, they had enjoyed previous to the war of Independence; for they were not allowed to land to dry and cure their fish in any part of Newfoundland, and only in those parts of Nova Scotia, the Magdalen Islands, and Labrador, where no British settlement had been or might be formed, expressly excluding Cape Breton, Prince Edward Island, and other places." There is no express exclusion of Cape Breton and Prince Edward Island in the treaty. Both were acquired by the Treaty of 1763, and were formally annexed to Nova Scotia. It was not until 1770 that Prince Edward Island had a separate government as an experiment, and a very poor experiment it turned out to be. To the American negotiators of 1783, Nova Scotia included both Cape Breton and Prince Edward Island.

of a native population. Where was Prince Edward Island, which speaks to-day through a premier and assembly? Why, in the early years of the Revolution, an American skipper, not then having the fear of the three-mile limit before his eyes, entered that famous bend, of which we have heard so much, fishing for men instead of mackerel, and he caught the governor and the executive council—a catch which, I am sure, my friend on the other side will admit to be all “number ones”—and carried them to General Washington, who, not knowing what use to put them to, treated them as our witnesses have told us the fishermen treat young cod, threw them back into the water, and told them to swim home again. Why, the very names with which we have become so familiar in the last months—Tignish and Paspebiac, Margaree and Chetticamp, Sciminac and Scatterie—had not then risen from the obscurity of a vulgar geography, to shine in the annals of international discussion. There was then no venerable Nestor of Dominion politics, to whose experienced sagacity the interests of an empire might be safely intrusted; there were no learned and dignified queen’s counsel to be drawn up in imposing contrast to the humble advocates who address you from this side of the table. There was no minister of marine, with one hundred and sixty-five fog-whistles at his command, ready to blow a blast of triumph all along the coast upon the receipt of this award. There were no rights to invade, and the maritime provinces and the Dominion came into existence subject to the conditions of national life which that treaty created. When they did come into these waters they found us there.

Our rights and the character of our rights, under the Treaty of 1783, were never questioned or disputed for over a quarter of a century, not until the war of 1812, and then the question was made only as an effort of diplomatic *finesse* . The Treaty of 1783 had given to British subjects the right of navigation on the Mississippi River, under the belief that the boundary line between the two countries touched the sources of that river. By 1814 it was discovered that this was not so, and as the right to use the territory of the United States to reach the river had not been given, the right to use the river was not available. Then was invented the theory that the war of 1812 abrogated the Treaty of 1783, and by it the British Government were enabled to propose to renew the fishery articles, if we would remodel and make effective the article as to the Mississippi. We denied the theory. I will not, of course, trouble you with any detailed account of the negotiations. The correspondence between Mr. Adams and Lord Bathurst and the negotiations of the Treaty of Ghent are matters of familiar history.

The question thus raised was left unsettled, both governments maintaining their positions until the Convention of 1818. Two things are evident from that convention. First, that our right, as we maintained it, to the inshore fisheries was recognized, because Great Britain accepted from us the relinquishment of a portion of it, and by accepting what we gave recognized our right to give. Second, that we relinquished this right because our fishing was at that time entirely a deep-sea fishing, and because the settlement of the coasts of the maritime provinces and the development of local colonial fisheries, anticipated in the Treaty of 1783, were now being realized. That convention was a friendly and liberal concession on the part of the United States, and when we are required to-day to pay for the restoration of the former condition, we are simply made to pay for our own liberality. For what are the Treaties of 1854, and 1871 but a restoration of the conditions of the Treaty

of 1783, accompanied by that freer commercial intercourse which the interests and the intelligence of both countries demand.

I had proposed to trace the negotiations from 1818 to 1854 and thence to the protocol and Treaty of 1871. But these latter were somewhat fully discussed in the argument upon the motion formerly made on behalf of the United States, and my colleague has fully explained to you how and by what agencies the restrictions of the Convention of 1818 became so odious to our people.

I need not do more than refer you to the instructions of the British Government to the negotiators of the Treaty of Washington, and recognise, as I do most gladly, the wisdom and liberality of their spirit, and I now turn to the practical question which that treaty submits to your decision.

I come now to the questions which that Treaty of 1871 raises, and they are simply these: What is the difference in value gained by us and the advantages gained by you; that is to say, what is the difference in value between the right to fish within the three-mile limit, on one side, and the right to fish on the United States shores, on the other, coupled with the right to send fish and fish-oil to the United States market free of duty.

With regard to the fisheries. The fisheries with which the Treaty of 1871 is concerned are the cod, the herring, the mackerel, the hake, the haddock, and halibut fisheries, within the three-mile limit. For the purposes of this argument there will be, I think, a general agreement that we can dismiss the hake, haddock, and halibut fisheries. It is admitted, also, that the cod fishery is essentially a deep-sea fishery, and does not, therefore, come within the scope of your examination, especially as the question of bait and supplies, which alone connected it with this discussion, has been eliminated by your former decision.

We have left, then, only the herring fishery and the mackerel fishery. As to the herring fishery, I shall say but very few words. The herring fishery on the shores of the Magdalen Islands we claim of right—a few scattering catches elsewhere are not appreciable enough to talk about; and we have, therefore, only the herring fisheries of Newfoundland and Grand Manan. The former is essentially a frozen-herring business, and I do not believe there exists a question that this business, both at Newfoundland and Grand Manan, is entirely a mercantile business, a commercial transaction, a buying and selling, not a fishing. The testimony on this subject is complete, and is confirmed by Mr. Babson, the collector of the port of Gloucester, who has told you that the Gloucester fleet, the largest factors in this business, take out licenses to touch and trade, when they go for frozen herrings, thus establishing the character of their mercantile voyage.

The only open question, then, as to the herring fishery, is the fishery for smoked and pickled herring at Grand Manan, and in the Bay of Fundy, from Latite to Lepreaux, and whether that is conducted by United States fishermen within the three-mile limit; a question, it seems to me, very much narrowed when you come to consider that from Eastport, in Maine, to Campobello is only a mile and a half, and from Eastport to Grand Manan is only six or seven miles.

Mr. THOMSON. Twelve or fourteen miles.

Mr. TRESCOT. Not according to the statement of the witnesses. But call it ten miles; still it leaves a very small margin to make an estimate upon. I will not dwell upon that. The open question is whether there is fishing at Grand Manan that is participated in by American fisher-

men within the three-mile limit, and what advantages they derive from it, and what element that will make in the calculation of the award.

The testimony lies in a very small compass. There are three or four witnesses on either side. You saw and heard them; and I am very willing to leave that whole Grand Manan business to you without one word of comment upon the testimony, except to ask you one simple question, as plain, practical, business men. Were you compelled tomorrow to invest money in the herring fishery of Grand Manan and the adjoining mainland and islands, to whom would you go for information, upon whose judgment would you rely; upon Mr. McLean, who estimates the value of that Lilliputian fishery at \$3,000,000 annually, one-half of which is the unlawful plunder of United States fishermen—a fishery which, according to his estimate, would require, instead of the few unknown vessels which cannot be named, a fleet which could not sail from any port without being registered, and making it more than one-third of all the fisheries of the United States, of all the fisheries of the Dominion, and everywhere recognized; or would you go to Mr. McLaughlin, the keeper of one of those 165 light-houses, for which we are to pay, and fish-warden, who says it is his duty to make inquiries of every fisherman of his catch, but who adds that every fisherman of whom he inquired deliberately lied to him, in order to evade the school-tax, and who then proceeds to fill out the returns from his inner consciousness of what the returns ought to be, and makes that return double his own official return to the minister of marine? Would you not go to the very men whom we have placed on the stand; men who, and whose fathers have, for sixty years been engaged in purchasing all these fish, furnishing supplies to all these fishermen, directing and controlling the whole business, and whose fortunes have been made and preserved by their precise and complete knowledge of the value and condition of this very fishery.

And now as to the mackerel fishery. There are two singular facts connected with it. The first is, that valuable as it is represented to be, lying, as it is claimed to do, within an almost closed sea, the mackerel fishery of the gulf has been until within a few years the industry of strangers. It has not attracted native capital, it has not stimulated native enterprise, it has not developed native ports and harbors, while you claim and complain that it has built up Gloucester into established wealth and prosperity, and supplies, to a large degree, a great food-market of the United States. I find the following remarks in a report of Commander Cochran to Vice-Admiral Seymour in 1851:

The curious circumstance that about one thousand sail of American schooners find it very remunerative to pursue the herring and mackerel fisheries on the shores of our northern provinces, while the inhabitants scarcely take any, does indeed appear strange, and apparently is to be accounted for by the fact that the colonists are wanting in capital and energy. The Jersey merchants, who may be said to possess the whole labor market, do not turn their attention to these branches. The business of the Jersey houses is generally, I believe, with one exception, carried on by agents: these persons receive instructions from their employers to devote their whole time and energy to the catching and curing of cod. Such constant attention to one subject appears at least to engender a perfect apathy respecting other branches of their trade. They are all aware, I believe fully aware, of the advantages to be derived from catching the herring and mackerel, when these come in shoals within a few yards of their doors, but still nothing is done.

Commercial relations of long standing, never having engaged in the trade before, possible want of the knowledge of the markets, and the alleged want of skill among the fishermen of the method of catching and curing of these fish, together with the twenty per cent. duty on English fish in America, may tend to induce the Jersey houses not to enter into these branches. Added to all these reasons the capital of the principals is, I am informed, in most instances small. It will probably be difficult to find about the Bay of Chaleurs and Gaspé any fishermen not engaged by some one of

the numerous Jersey houses, and it may be said that a new branch of industry would much interfere with the cod-fishery, but so lucrative a trade as the herring and mackerel one would prove would enable higher wages to be given than are done for cod. In fact, I believe that very small, if any, wages are given at all, the money due to the fisherman for his summer labor being absorbed in food and clothing for himself and family, repairs of boats and fishing-gear, almost always deeply in debt in the spring, or at any rate sufficiently so to insure his labor for the ensuing summer, and so more persons would be induced to resort here the summer season.—(Confidential Official Correspondence, pp. 4 and 5.)

This is precisely the testimony of the Gaspé witnesses who were put upon the stand. The great Jersey houses, which do represent the capital, enterprise, experience, and skill of the country, do not touch the mackerel fisheries. As they did a quarter of a century ago, so they do to-day: they abandon, neglect utterly what has been called the California of the coast, and make and maintain their fortunes by giving up mackerel-fishing, and confining their attention exclusively to cod-fishing.

The other fact which strikes me is this: that whatever development there has been—and it has been chiefly, if not entirely, on Prince Edward Island—has come since 1854, and has grown larger and richer under the Reciprocity Treaty. In 1852, the legislative council and assembly of Prince Edward Island, in colonial parliament assembled, declared that “the citizens of the United States have an advantage over the subjects of Your Majesty on this island which prevents all successful competition, as our own fish caught on our own shores by strangers are carried into their ports by themselves, while we are excluded by high protective tariff.”—(Confidential Official Correspondence, page 5.)

From 1854, two years only after this declaration, there was a large and prosperous development of the Prince Edward shore fishery. This point has been insisted on and reiterated over and over again by the British witnesses. And yet we are asked now to pay \$15,000,000 for the twelve years' use of the very privileges given by that treaty under which this prosperity was developed; for, as far as the fishing articles and the fisheries are concerned, the provisions and privileges of the Treaty of 1871 are almost identical with the treaty of 1854, the treaty under which this fishery which now demands \$15,000,000 compensation, was, I may almost say, created.

Passing by these topics, however, let me ask you to consider the difference in the character of the testimony upon which the two cases rest. I do not mean to institute any comparison between the veracity of the witnesses, or to imply that one has more than another deviated from the truth. But I can best illustrate what I do mean by asking the same question I did as to the herring-fishing.

If you wished to invest in mackerel, would you trust the rambling stories of the most honest of skippers or the most industrious of boat-fishers against the experience and the books of men like Proctor, Sylvanus Smith, Hall, Myrick, and Pew? Would you feel safe in buying when they refused to buy? Would you be disposed to hold when you saw them selling? And here lies the whole difference between us. Ours is the estimate of the capitalist; theirs the estimate of the laborer. Let me take another illustration. Suppose that, instead of estimating the relative value of these fisheries, you were called on to estimate the relative value of the cotton crops of Georgia and Mississippi. Would it enter your minds to go into remote corners of these great States and gather together 83 small farmers, planting on poor lands, without artificial manure, without capital to hire labor, and draw your inference of production from their experience, although every word of it were true? Would you go to a few great planters and judge of the returns of cotton-

planting from the results of lavish expenditure? No. You would go to Savannah and Mobile, to Charleston and New York, to the offices of the factors, to the counting-houses of the great buyers, to the receipts of the railroads, to the freight-lists of the steamers. I may safely say that there is no great industry, the costs and profits of which can be ascertained by such partial individual inquiry. I am willing to admit perfect honesty of intention on the part of the individuals; but they never can understand how small a portion of a great result is the product of their local contribution; and just as a small farmer in all sincerity measures the crop of grain or cotton that feeds and clothes the world from the experience of his few acres; so the boat-fishermen of Prince Edward measures the mackerel-catch of the gulf by the contents of his boat, and imagines the few sail he sees in the offing of his harbor to be a huge fleet that is stealing his treasure. I mean no disrespect to very excellent people, but as I have heard their testimony, I would not but recall the humble address of the legislative council and house of assembly of Nova Scotia "to the Queen's most Excellent Majesty," in March, 1838, in which the fishermen of Prince Edward and the Magdalen Islands are tersely described as "a well-intentioned, but secluded and uninformed, portion of Your Majesty's subjects."

Let me call your attention to another important point of difference between their testimony and ours. Theirs is the affirmative in this contention. They must prove their allegation. What is their allegation? They allege that the catch of mackerel by American fishermen within the three-mile limit is of more pecuniary value to us than the right to fish in the same limits in United States waters, with the additional right to send in fish and fish-oil free, is to them. We say, prove it. Now, there can be but two ways of furnishing such proof. Either the British counsel must produce the evidence of a positive catch of value sufficient to sustain the allegation, or they must prove such a habit of successful fishing by Americans within the limits as justifies their inference of a proportion of such value.

They have not attempted to do the first. Nowhere in their evidence have they shown so many barrels of mackerel positively caught within the three-mile limit, and said, "There is the number, and here is the value for which we are entitled to be paid." If all the mackerel that have been sworn to by every witness as caught within the limit—not what he has heard has been caught, or thinks has been caught, but knows from his personal knowledge—be added together, it would not make \$100,000. Their value would be utterly inappreciable compared with the amount claimed.

They have adopted the other course, and by it they must stand or fall. They have put on the stand (leaving out Newfoundland) about fifty witnesses, who swore that they in United States ships caught mackerel within the limits; and they claim that this fact proves "the habit" of fishing within the limits. In reply, we put on an equal number of witnesses, who prove that they caught habitually good fares in the bay, without fishing within the three-mile limit. "Granted," they say, "but this only proves that your fifty witnesses did not fish within the three-mile limit." That is true; but is it not equally true that their testimony only proves that their witnesses, and those alone, fished within the limits, and leaves the question simply, whether they caught enough to justify an award? To go a step further, you must prove "the habit" of United States fishermen. But how can you prove a habit with equal testimony for and against it? It is exactly like what all lawyers and business men know as proving "commercial usage." In the absence of

statute law, if you wanted to prove "commercial usage" at Amsterdam or New York, as to what days of grace were allowed on commercial paper, what would you do? Examine the merchants of these cities as to "the habit" of commercial people. Now, if fifty merchants swore that one day was allowed, and another fifty swore three days were allowed, you might not know whether it was one or three, but you would know that you had not proved any "habit." Just so, if fifty fishermen of a fishing-fleet swore that it was "the habit" of the fleet to fish inshore, and fifty swore that it was "the habit" never to fish inshore, you might not know which to believe; but supposing, what in this case will not be disputed, that the witnesses were of equal veracity, you would certainly know that you had not proved "the habit."

You will see, therefore, that the burden of proof is on our friends. They must prove their catch equal in value to the award they claim. If they cannot do that, and undertake to prove "habit," then they must do—what they have not done—prove it by an overwhelming majority of witnesses. With equal testimony, their proof fails.

And now, with such testimony, let us take up the mackerel fishery. Before you can fix the relative value of American or British interest in this industry, you must ascertain what it is. Before you can say how it is to be divided, you must know what you are to divide. Fortunately, we are agreed that there is but one market for all mackerel, whether caught on the United States shores or in the Gulf of St. Lawrence, and that is the United States. No statement has gone beyond the estimate of a supply from all the fisheries of more than 400,000 barrels. In fact, that is considerably above the average supply. Then no statement has gone beyond an average of \$10 per barrel as the price. That makes \$4,000,000. Next, I think I am safe in saying that the consent of the most competent witnesses has fixed 400 barrels as the limit below which a vessel must not fall in order to make a saving trip. If that be so, the supply of 400,000 barrels represents one thousand profitable trips. That is not catches making large amounts of money, but catches that did not lose. What, then, is the average value of a profitable trip? Take the estimates of Mr. Sylvanus Smith, Mr. Proctor, and Mr. Pew, and see what profits you can make out of even such a trip. I am taking a large result from these calculations when I take Mr. Smith's estimate of \$220, where the owner runs the vessel, and that will give you from the 400,000 barrels a resultant profit of \$220,000. And in this calculation I have not attempted to separate the gulf catch from the United States shore catch, or to determine what portion of the gulf catch was made within the three-mile limit. Take the largest estimate that has been made by anybody; call the gulf catch a third of the whole; say \$75,000, to avoid the fractions; and then consider half of that caught within three miles, and you have \$36,000 annually, or \$432,000 in twelve years, for the privilege of making which you ask over one million annually, or \$15,000,000 for the twelve years. But even with this result, this is an exaggerated, a very exaggerated estimate of the value of the mackerel fishery, because it assumes the highest catch ever known as the average. Now, there are two facts upon which all the testimony agrees: 1. The variable character of the mackerel fishery. 2. The steady diminution of the supply from the gulf as compared with the supply from the United States shores. If these be taken into calculation, what margin is left for an award, especially when it is remembered that this award is for twelve years, and, in the opinion of those most experienced, the variation in the mackerel catch passes from its minimum to its maximum every seven years; giving, therefore, in this period but one maxi-

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mum year in return for the payment. Upon these two facts we can rest. I do not care to go through the testimony that you have had before you. I did make one or two tabular statements, but I do not think it worth while to trouble you with them. The general results you can get at as well as I did. You know the general run of the testimony. You know whether I am saying what is fairly and reasonably accurate. Our contention is that we have proved these points conclusively, and taking them as the basis, there is no margin whatever left for an award on account of profits accruing to the United States from the privilege of inshore fishing.

But there is another fact not stated in any of the evidence, but which is clearly proven by the whole of it; and it is this: The mackerel market is a speculative market; its profit represents simply a commercial venture, and not the profit to the fisherman. In other words, a barrel of mackerel salted, packed, and sold, produces a result in which the profit of the fisherman makes but a small part. Take the statement of Mr. Hall, that he purchases regularly from the fishermen of Prince Edward Island their mackerel at \$3.75 per barrel. Now, whatever Mr. Hall sells that barrel of mackerel for above and beyond \$3.75 represents capital, labor, skill, with which the fishery, as a fishery, has no concern. Between the fish in the water and the fish in the market there is as much difference as there is between a pound of cotton in the field and a pound of cotton manufactured; and you would have as much right to estimate the value of a cotton plantation by the value of the cloth and yarn into which its production has been manufactured, as you have to value the fisheries by the value of the manufactured fish which are sold.

Suppose that Mr. Hall, or a combination of Mr. Hall's, should purchase the whole mackerel catch at \$3.75, and then hold for such a rise in price as they might force. This speculation might make Mr. Hall a millionaire or a bankrupt, but would any man in his senses consider the result, be it profit or loss, as representing the value of the mackerel fishery?

So little, indeed, does the value of fish enter into the market value of the mackerel, that you have this statement from Mr. Pew, the largest and longest established fish-merchant on this continent: "No. 1 bay mackerel in the fall were bought by us at \$22.50, and piled away over winter, and I think the next May and June they sold down as low as \$4, \$5, and \$6 a barrel—the same fish; and I think that shore mackerel, which had sold as high as \$24, were then sold for about the same price."

Would the mackerel market of that year have afforded you any fair criterion by which to appraise the mackerel fishery of that year? What interest had the mackerel fishermen in this speculative variation of the market price? And you have the further and uncontradicted testimony of more than one competent witness that when the mackerel catch of 1870 was, with one exception, the largest ever known, prices were maintained at a higher point than in years of very small catch.

Upon this state of facts, proven by such competent witnesses as Proctor, Sylvanus Smith, Myrick, Hall, and Pew, I submit that in estimating the value of the fishery you can only take the value of the raw material—that is, the fish as taken by the fisherman and by him sold to the merchant; and even then the price he receives represents, besides the value of the raw material, his time, his labor, his living, and his skill. For throughout this argument you must not forget that the British Government gives us nothing. For the freedom from duty, and the right to fish in United States waters, it gives us the privilege only of using our own capital, enterprise, and industry within certain limits. It cannot secure us, and does not offer to secure us, a single fish. It

cannot control the waters or the inhabitants thereof. It cannot guarantee that in the twelve years of the treaty the catch in the gulf will be even tolerable, and, indeed, for the five years that have already run it has been pure loss. And yet the British Case demands that we should pay not only for the little we do catch, but for all that, under other circumstances, we might catch; and not only that, but that we should pay for all the fish that the British fishermen do not catch!

We contend, then, that we have proved that the mackerel fishery of the gulf is so variable that it offers no certainty of profit; that the use of the gulf fishery has diminished steadily; that in the gulf there is no evidence of any habitual fishing within the three-mile limit; that an equal number of experienced and competent fishermen prove that they do not fish at all inside the limits, and that the development of the United States coast fishery has offered, and is offering, a more profitable field for the industry and capital of United States fishermen, while the supply of fish from the lakes and the transport of fresh fish far into the interior is superseding the use of salted mackerel as an article of food; and therefore there is no ground in any advantage offered by the Treaty of 1871 upon which to rest a money award.

We now go further and maintain that if in this condition of the mackerel fishery you can find any basis for such award, then the advantages offered to the subjects of Her Britannic Majesty by the United States in the same treaty are a complete offset.

These advantages consist, first, in the right to share the shore fisheries of the United States. It will not do to assert, as the British Case does, that "their modes of fishing for menhaden and other bait are furthermore such as to exclude strangers from participating in them without exceeding the terms of the treaty; and even without this difficulty it must be apparent that such extensive native enterprises would bar competition and suffice to insure the virtual exclusion of foreigners." (Page 29.)

These, as they stand, are mere assertions, unsupported by any proof. The treaty provision is the highest law of the land, and no local legislation can prevent the exercise of the privileges it confers. The competition of native enterprise is just what the United States fishermen meet in British waters; and that the native enterprise is more extensive on the United States shores, only proves that there is an industry which better rewards the enterprise. It is like all treaty privileges—one, the use of which depends upon those who take it, and if, when given and taken in exchange, the parties taken do not choose to use it, this refusal cannot deprive it of its value.

2. The second advantage given to Her Britannic Majesty's subjects is the right to export into the United States fish and fish-oil free of duty. The estimate which we have submitted as to the value of this privilege is that it is worth about \$350,000 annually.

This has not been denied, but I am concerned with the principle, not the amount. To this offset the British counsel object, upon the ground that the duty taken off the British producer reduces the price to the American consumer, and is therefore a benefit to the latter to the same extent, for, if imposed, the consumer would have to pay. Into the politico-economical argument I shall not enter. You have heard enough of it in the cross-examinations, where counsel and witnesses gave you their opinions; and our view of the case has been placed before you with great clearness and force by the learned counsel who preceded me. Upon that question, I have but two remarks to make, and I do not think either can be controverted:

1. If it be assumed, as a general principle, that the consumer pays the duty, it is equally true that he does not pay the whole of it. For to assume any such position would be to strike out all possibility of profit. Take an illustration: A merchant imports 1,000 yards of broadcloth, which, adding all costs and duties, he can sell at a profit at \$6 a yard. Now add a duty of \$2 a yard. He cannot sell his customer at \$8 a yard; he must divide the rise in price, and, while he adds the duty, he must diminish the profit. Except in case of articles of luxury, such as rare books, jewels, costly wines, scientific instruments, works of art, the increase of duty cannot, and never has been, imposed entirely upon the consumer.

2. If this be true, then you must ascertain what is the proportion of increase in price of mackerel consequent upon the duty which is paid by the consumer, before you can say what he, the consumer, gains by the removal. There has been no attempt to do this on the part of counsel. Our most experienced witnesses testify that the additional duty of \$2 would raise the price of mackerel about fifty cents a barrel, which would leave \$1.50 to be paid by the producer. I do not undertake to say whether this is right or wrong, for I am discussing the principle, not the amount. The question is an insoluble one. You have been told by competent witnesses, and after a fortnight's preparation for rebuttal they have not been contradicted, that the mackerel market is a speculative one; that in one year the speculative price has varied from \$22 to \$4, while for ten years the price to the daily consumer has scarcely varied at all; that the price depends much upon the catch; and yet that in the year of the largest catch the price has not gone down; and that being food for poor people, there is a price which when reached, with duty or without duty, the consumption is immediately reduced; and, added to all this, that the competition of fresh fish is fast driving it out of use. With all these conditions to be ascertained first, who can ever say what proportion of duty is paid by the producer and what by the consumer, or if any is paid by the latter?

I do not believe it is possible to do it, but if it were possible to do it you cannot make it an offset. If you undertake to make an offset of it let us know what it is. We state our account. We take this statement and we say, "In the year 1874 the duty remitted was \$355,972." Now, what are you going to set off against that?—an opinion, a theory, a belief, a speculation to weigh it down with? If you are going to set off dollars against that, tell us how many dollars in 1874 you are going to set off against that. How are you going to find out? How can you ever tell us? But if the gentlemen's theory is right, they have not converted it into a practical theory that you can apply. If they will undertake to tell us, "In 1874 and 1875 we will show you a reduction of price in mackerel to a certain number of consumers to the amount of \$200,000 or \$250,000," strike the balance. But you cannot strike the balance with an opinion. Before they can make this claim they must submit that statement to us. But I do not intend to dwell upon that, for this reason. The principle that I hold ought to be applied to the solution of this question is this: that it is one with which, under the treaty, you have nothing on earth to do. If our friends on the other side could show, dollar for dollar, that every dollar of the \$355,000 remitted by the renewal of the duty was \$355,000 to the benefit of the American consumers, you could not reckon it.

Now, let us look at the treaty:

ARTICLE XXII. Inasmuch as it is asserted by the Government of Her Britannic Majesty that the privileges accorded to the citizens of the United States, under Article XVIII of

this treaty, are of greater value than those accorded by Articles XIX and XXI of this treaty to the subjects of Her Britannic Majesty, and this assertion is not admitted by the Government of the United States, it is further agreed that Commissioners shall be appointed to determine, having regard to the privileges accorded by the United States to the subjects of Her Britannic Majesty, as stated in Articles XIX and XXI of this treaty, the amount of any compensation which, in their opinion, ought to be paid by the Government of the United States to the Government of Her Britannic Majesty, in return for the privileges accorded to the citizens of the United States under Article XVIII.

Now, under this treaty there stands before you to-day a balance, on one arm of which hangs the 18th Article of the Treaty of 1871, and on the other the 19th and 21st Articles. You cannot add to either scale one scruple, one pennyweight, which the treaty has not put there. You cannot transfer weights from one to the other. You can only look at the index and see whether the register shows that one is heavier than the other, and how much heavier. What are the advantages conferred by the 18th Article of the Treaty of 1871 on the citizens of the United States?

It is agreed by the High Contracting Party, that in addition to the liberty secured to the United States fishermen by the Convention between Great Britain and the United States, signed at London on the 20th day of October, 1818, of taking, curing, and drying fish on certain coasts of the British North American Colonies therein defined, the inhabitants of the United States shall have, in common with the subjects of Her Britannic Majesty, the liberty, for the term of years mentioned in Article XXXIII of this treaty, to take fish of every kind, except shell-fish, on the sea-coasts and shores, and in the bays, harbors, and creeks of the Provinces of Quebec, Nova Scotia, and New Brunswick, and the Colony of Prince Edward Island and of the several islands thereunto adjacent, without being restricted to any distance from the shore, with permission to land upon the said coasts and shores and islands, and also upon the Magdalen Islands, for the purpose of drying their nets and curing their fish.

That is the only advantage which is given to us by the 18th Article of the treaty, and it is the only advantage so given to us, the value of which you have any right to estimate. I am perfectly willing to admit a set-off of this kind, which is provided for apparently. It is agreed in Article XXI that for the term of years mentioned in Article XXXIII of this treaty, fish-oil and fish of all kinds (except fish of the inland lakes and of the rivers falling into them, and except fish preserved in oil), being the produce of the fisheries of the United States or of the Dominion of Canada or of Prince Edward Island, shall be admitted into each country, respectively, free of duty.

Now, if against the \$350,000 of duty remitted upon fish and fish-oil imported from the Dominion into the United States, you can set off any duty on fish and fish-oil imported from the United States into Canada, you will have the right to do it; but that is the extreme limit to which, under the words of that treaty, you have a right to go. It is nothing whatever to you whether the advantage to us is great or small of the remission of that duty. It is a positive advantage to the citizens of the Dominion: it is given to them as an advantage, and in return for it they have given us a right to do one thing and nothing else, and under that treaty you have no right to value any other advantage against us.

I have now stated, as concisely as I have been able, the scope of our argument—the principles which we think ought to be applied to the solution of this question. As to the facts, you will judge them by the impression the witnesses have made upon yourselves, and not by any representations of the impressions they have made upon us. And we fully and gratefully recognize that you have followed the testimony with patient and intelligent attention.

It seems to me (and this I would say rather to our friends on the other side than to you) that at the end of this long investigation, the true character of the case is not difficult to see. For a century the re-

lations of the two countries on this question have been steadily improving. We have passed from the jealous and restrictive policy of the Convention of 1818 to the free and liberal system of the Treaty of 1854, and, with good sense and good temper, it is impossible that we should ever go backward. The old feuds and bitternesses that sprang from the Revolution have long since died out between the two great nations, and in fact, for Great Britain, the original party in these negotiations, has been substituted a nation of neighbors and kinsmen, a nation working with us in the wise and prosperous government of this vast continent, which is our joint possession; a nation, I may add, without presumption or offense, whose existence and whose growth is one of the direct consequences of our own creation, and whose future prosperity is bound up with our own. In the Treaty of 1871 we have reached a settlement which it depends upon your decision to make the foundation of a firm and lasting union. Putting aside for the moment the technical pleadings and testimony, what is the complaint and claim of the Dominion? It is that where they have made of the fishery a common property, opened what they consider a valuable industry to the free use of both countries, they are not met in the same spirit, and other industries, to them of equal or greater value, are not opened by us with the same friendly liberality. I can find no answer to this complaint, no reply to this demand, but that furnished by the British Case, your own claim to receive a money compensation in the place of what you think we ought to have given. If a money compensation is recompense—if these unequal advantages, as you call them, can be equalized by a money payment, carefully, closely, but adequately estimated—then we have bought the right to the inshore fisheries, and we can do what we will with our own. Then we owe no obligation to liberality of sentiment or community of interest; then we are bound to no moderation in the use of our privilege, and if purse-seining and trawling and gurry-poison and eager competition destroy your fishing, as you say they will, we have paid the damages beforehand; and when at the end of twelve years we count the cost, and find that we have paid exorbitantly for that which was profitless, do you think we will be ready to renew the trade, and where and how will we recover the loss?

No. I believe that this treaty as it stands executed to-day, interpreted in the broad and liberal spirit in which it was conceived, is, whether you regard the interests of the maritime provinces or the wider interests of the whole Dominion, a greater advantage in the present and a larger promise in the future than any money-award which may belittle the large liberality of its provisions. As it stands it means certain progress. The thorough investigation which these interests have now for the first time received, a few years, a few months of kindly feeling and common interest will supply all its deficiencies and correct all its imperfections.

And, therefore, do I most sincerely hope that your decision will leave it so, free to do its own good work, and then we who have striven together, not, I am glad to say, either unkindly or ungenerously, to reach some just conclusion, will find in the future which that treaty contains the wisest solution, and we shall live to see all possible differences which may have disturbed the natural relations of the two countries, not remotely but in the to-morrow of living history, not metaphorically but literally, "in the deep bosom of the ocean buried."

VI.

CLOSING ARGUMENT OF HON. RICHARD H. DANA, JR., ON BEHALF OF THE UNITED STATES.

FRIDAY, November 9, 1877.

May it please Your Excellency and Your Honors :

Certainly, in the discharge of our respective duties on this high occasion, we are met under most favorable auspices. Our tribunal is one of our own selection. The two parties to the question, Great Britain and the United States of America, have each chosen its representative upon the Board : and, as to the President and Umpire of the Tribunal, while the treaty obliged us, by reason of the lapse of time, to refer the appointment to the representative of a foreign power at London, yet it is well known that the appointment was made in conformity with the expressed wish of those governments, who found, as the head of this court, one with character so elevated and accomplishments so rare that they had no difficulty in agreeing upon him themselves.

We have been fortunate, gentlemen of the Commission, that no misfortune, no serious accident, in the long period of three months that so many gentlemen have been together, has fallen upon us. The shadow of death has not crossed our path, nor that of any of ours at a distance, nor even has sickness visited us in any perilous manner. We have been sustained all the while by the extreme hospitality and kindness of the people of this city, who have done everything to make our stay here as agreeable as possible, and to breathe away any feeling we might have had at the beginning that there might be any antagonism which would be felt beyond the legitimate contests of the profession. The kindest feeling and harmony prevail among us all. Your legislature of this province has set apart for our use this beautiful hall, and while my friend and associate, Mr. Trescot, saw, in the presence of the portrait of His Majesty, which looks down upon us from the walls, an encouragement for the settlement of the matter confided to us, because that king supposed it settled more than a hundred years ago, I confess that the presence of that image has been to me throughout interesting and almost painful. It was the year that he ascended to the throne that the French were finally driven from North America and that it all became *British America*, from the southern coast of Georgia up to the North Pole, and all these islands and peninsulas which form the Gulf of St. Lawrence passed under his scepter. And what a spectacle for him to look down upon now, after a hundred years ! A quiet assembly of gentlemen, without any parade or ostentation, without an armed soldier at the gate or door, settling the vexed question of the fisheries which, in former times and under other auspices, would have been cause enough for war.

And settling them between whom ? Between his old thirteen colonies, now become a republic of forty millions of people, bounded by seas and zones, and his own empire, its scepter still held in his own line, by the daughter of his own son, more extended, and counting an immensely larger population than when he left it, showing us not only the magnitude, and increase, and greatness of the republic, but the stability, the security and the dignity of the British Crown. Yes, gentlemen of the Commission, when he ascended the throne, and before that, when his grandfather, whose portrait also adorns these walls, sat upon the throne of England, this whole region was a field of contest between France and Great Britain. It was not then British North America. Which should

hold them, with these islands and peninsulas and these fisheries, adjacent to and about them, depended upon the issue of war, and wars one after another; but Great Britain, holding certain possessions here, claimed them, and made large claims, according to the spirit of that day, covering the Banks of Newfoundland, and the other banks, and the whole deep-sea fishery out of sight of land, and also up to the very shores and within hailing distance of them, without any regard to a geographical limit of three miles, which is a very modern invention. That contest was waged, and the rights in these islands and these fisheries settled by the united arms of Great Britain and of New England, and largely, most largely, of Massachusetts. Why, Louisburg, on Cape Breton, held by the French, was supposed to be the most important and commanding station, and to have more influence than any other upon the destinies of this part of the country. And, Mr. President, it was a force of between three and four thousand Massachusetts men, under Pepperell, and a few hundred from the colonies, with two hundred and ten vessels, that sailed to Louisburg, invested and took it for the British Crown, in trust for the British Crown and her colonies. Gridley, who laid out the fortifications at Bunker Hill, and Prescott, who defended them, were in the expedition against Louisburg. And wherever there was war between France and England for the possession of this continent, or any part of it, or these islands and these fisheries, the militia and volunteers of Massachusetts fought side by side with the regulars of Great Britain. They fought under Wolfe at Quebec, under Amherst and Lord Howe at Ticonderoga; and, even at the confluence of the Alleghany and Monongahela, Washington commanded under Braddock. We followed the British arms wherever they followed the French arms. The soldiers of Massachusetts, following them to the sickly sugar islands of the West Indies, lay side by side on cots in the same fever-hospitals and were buried in the same graves.

And if any of you shall visit the old country again, and your footsteps may lead you to Westminster Hall, you will find there a monument to Lord Howe, the brother of Admiral Howe, who fell at Ticonderoga, erected to his memory by the Province of Massachusetts; and there let it stand, an emblem of the fraternity and unity of the olden times and a proof that it was together, by our joint arms and our joint enterprise, blood and treasure, that all these provinces, and all the rights appertaining and connected therewith, were secured to the Crown and the colonies. Yes, gentlemen of the Commission, every one of the charters of Massachusetts gave her a right to fish in these northwestern waters, and they, you will observe, were irrespective of her geographical position. None of them watered her shores, but they were the result of the common toil, treasure and blood of the colonies and of the Crown, and they were always conceded to the colonies by the Crown. The last Massachusetts charter granted by the Crown is in these words—it assures to Massachusetts “the right to use and enjoy the trade of fishing on the coast of New England, and all the seas thereto adjoining, or arms of said seas, where they have been wont to fish.” The test was the habit of the people; “where they had,” in the good old Saxon English, “been wont to fish.” It did not depend on geographical lines. They had no idea then of limiting the colonies to three miles, and giving them a general right on the seas, but whatever right Great Britain had here she secured to the colonies to the last.

I may as well present here, gentlemen of the Commission, as at any other time, my view respecting this subject of the right of deep-sea fishery. The right to fish in the sea is in its nature not real, as the common

law has it, nor immovable, as named by the civil law, but personal. It is a liberty. It is a franchise or a faculty. It is not property pertaining to or connected with the land. It is incorporeal; it is aboriginal. The right of fishing, dropping line or net into the sea, to draw from it the means of sustenance, is as old as the human race, and the limits that have been set about it have been set about it in recent and modern times, and wherever the fisherman is excluded, a reason for excluding him should always be given. I speak of the deep-sea fishermen, following the free-swimming fish through the sea, not of the crustaceous animals or any of those that connect themselves with the soil under the sea or adjacent to the sea, nor do I speak of any fishing which requires possession of the land or any touching or troubling the bottom of the sea; I speak of the deep-sea fishermen who sail over the high seas pursuing the free-swimming fish of the high seas. Against them, it is a question not of admission, but of exclusion. These fish are not property. Nobody owns them. They come we know not whence, and go we know not whither. The men of science have been before us, and fishermen have been before us, and they do not agree about it. Professor Baird, in a very striking passage, gave it as his opinion that these fish retire in the winter to deep sea or to the deep mud beneath the sea, and become unseen and unknown, and in the spring they invade this great continent as an army, the left wing foremost, touching the Southern States first and last the northern parts of the British colonies. Others think they go to the South and come back in lines and invade this country; but, at all events, they are more like those birds of prey and game which retire to the South in the winter, and appear again and darken the sky as they go to the North. They are no man's property; they belong, by right of nature, to those who take them, and every man may take them who can. It is a totally distinct question whether, in taking them, he is trespassing upon private property, the land or park of any other individual holder. "The final cause," as the philosophers say, of the existence of the sea-fish is, that they shall be caught by man and made an object of food by man. It is an innocent use of the high seas, that use which I have described. More than that, it is a meritorious use. The fisherman who drops his line into the sea creates a value for the use of mankind, and, therefore, his work is meritorious. It is, in the words of Burke, "wealth drawn from the sea," but it was not wealth until it was drawn from the sea.

Now, these fishermen should not be excluded except from necessity, some kind of necessity, and I am willing to put at stake whatever little reputation I may have as a person acquainted with the jurisprudence of nations (and the less reputation, the more important to me) to maintain this proposition, that the deep-sea fisherman, pursuing the free-swimming fish of the ocean with his net, or his leaded line, not touching shores or troubling the bottom of the sea, is no trespasser, though he approach within three miles of a coast, by any established, recognized law of all nations. It may possibly cross the minds of some of this tribunal, that perhaps that is not of very great importance to us here, but from the reflection I have been able to give to this case (and I have had time enough, surely) it seems to me that it is. I wish it to be fully understood, what is the nature of that exclusive right for the withdrawing of which we are asked to make a money compensation? What is its nature, its history, and its object? The treaty between Great Britain and France of 1839, which provides for a right of exclusive fishery by the British on the British side of the channel, and by the French on the French side of the channel, and measures the bays by a ten-mile line, is entirely a matter of contract between the two nations. The treaty be-

gins by saying, not that each nation acknowledges in the other the right of exclusive fishery within three miles of the coast; nothing of the kind. It begins by saying, "*It is agreed between the two nations that Great Britain shall have exclusive fishery within three miles of the British coast, and that the French shall have exclusive fishery within three miles of the French coast,*" and then it is further agreed that the bays shall be measured by a ten-mile line. All arbitrary alike, all resting on agreement alike, without one word which indicates that the law of nations any more gives an exclusive right to these fisheries by the British for three miles, than it does to measure the bays by ten miles. In the time of Queen Elizabeth this matter seemed to be pretty well understood in England. Her Majesty sent a commission, if I recollect right, an embassy, to Denmark, on the subject of adjusting the relations between the two countries, and among the instructions given the ambassadors were these:

And you shall further declare that the lawe of nations alloweth of fishing in the sea everywhere; as also of using ports and coasts of princes in amitie for traffique and avoidinge danger of tempests; so that if our men be barred thereof, it should be by some contract. We acknowledge none of that nature; but rather, of conformity with the lawe of nations in these respects, as declaring the same for the removing of all clayme and doubt; so that it is manifest, by denying of this fishing, and much more, for spoyling our subjects for this respect, we have been injured against the lawe of nations, expressely declared by contract as in the aforesaid treaties, and the King's own letters of '85.

And for the asking of licence (your honors will be pleased to observe that the Danish statute required the English to pay licenses for fishing in certain parts of said sea close to the shore), if our predecessors yielded thereunto, it was more than by lawe of nations was due; yielded, perhaps, upon some special consideration, yet, growing out of use, it remained due by the lawe of nations, what was otherwise due before all contract; wherefore, by omitting licence, it cannot be concluded, in any case, that the right of fishing, due by the lawe of nations, faileth; but rather, that the omitting to require licence might be contrarie to the contract, yf any such had been in force.

Sometime, in speech, *Denmark* claymeth proprietie in that sea, as lying between *Norway* and *Island*—both sides in the dominions of oure loving brother the King, supposing thereby that for the proprietie of a whole sea, it is sufficient to have the banks on both sides; as in rivers. Whereunto you may answere, that though proprietie of sea, in some small distance from the coast, maie yeild some oversight and jurisdiction, yet use not princes to forbid passage or fishing, as is well seen in our seas of England.

Though possession of the land close to the sea, says this remarkable letter of instructions, "may yield some oversight and jurisdiction, yet use not princes to forbid passage or fishing, as is seen by our law of England." There is much more to the same effect. So that whatever claim of jurisdiction over the sea a neighboring nation might make, whatever claim to property in the soil under the sea she might make, it was not the usage of princes to forbid passage, innocent passage, or the fishing and catching of the free-swimming fish, wherever they might be upon the high seas.

I wish, particularly, to impress upon your honors that all the North British colonies were in possession and enjoyment of the liberty of fishing over all the Northwestern Atlantic, its gulfs, and bays. There is no word indicating the existence of either of these two things, a three-mile line of exclusion or attaching a right of fishing to the geographical position of the colony. No, gentlemen, the Massachusetts fisherman who dropped his leaded line by the side of the steep coast of Labrador, or within hail of the shore of the Magdalen Islands, did it by precisely the same right that he fished in Massachusetts Bay, off Cape Cod, or Cape Ann. Nobody knew any difference in the foundation, or the test of the rights, in those days. It was a common heritage, not dependent upon political geography. As I have said, it was conquered by the common toil, blood, and treasure, and held as a common right and pos-

session. "Be it so," your honors may say, "but could not Great Britain take it from her colonies?" Well, the greatest philosopher who gave his life to statesmanship, Edmund Burke, said: "That is a question which can better be discussed in the schools, where alone it can be discussed with safety." He compared it with the question of the right to shear wolves. He was not disposed, perhaps, to deny the right in the abstract, but as a servant of the Crown he could not advise the Crown to try that kind of experiment. I recollect that when, before our civil war, an ardent and enthusiastic admirer of slavery said on the floor of Congress that capital ought to own labor, and that we had made a great mistake in New England that the capitalist did not own the men who worked in the factories and the men who followed the sea, Mr. Quincy replied by an anecdote respecting the bounty which the State of Maine gave for every wolf's head. A man was asked why he did not raise a flock of wolves for the bounty; he said it would turn out, he was afraid, to be a hard flock to tend. And the wisest men in Great Britain—and I can say this in the presence of gentlemen who are almost all British subjects now, without fear of giving offense—the wisest men of Great Britain thought it was an attempt which had better not be made. But the act of March, 1775, urged by the obstinacy of George III and his adherence to worn-out traditions, was passed. After a conflict with the colonies on the subject of the stamp-act and the tea-tax, that fatal act was passed, aimed at home rule, self-government, and the trade of the New England people—or rather, I should say, in the first instance, of Massachusetts, because it was Massachusetts over which the contest was waged during the early part of our struggle—and attempting to undo all we had been doing for one hundred and fifty years; to revolutionize our entire political system, and instead of leaving us what we had enjoyed for that time, home rule, to substitute a government at St. James or St. Stephen's. Among other things, they provided that we should be deprived of our right in the fisheries. The statute acknowledged the existence of it, but Massachusetts was to be deprived of her right by the act of Parliament.

Then came the debate, fiercer than ever, "Can Parliament take from us this right?" Well, it rested upon the assumption that all the grants the charters vested in us were held at the discretion of Parliament, and if Parliament could take away our fisheries, she could take away our landmarks, she could take Boston and Salem, which had been granted to us under the same charter that the fisheries had been granted; and when that act was passed, Burke, and Fox, and Sheridan, and Barré, and others, our friends in the British Parliament, called it a simple provocation to rebellion. Burke said, "it is a great penal bill which passed sentence on the trade and sustenance of America." New England refused obedience; the other colonies assisted her, and we always treated it as void. Then came the war, and what was the effect of that on our title? Why, may it please you, gentlemen, I do not deny that war has an effect, but not the kind of effect which has been contended for by the British Government and by counsel. I agree that war puts at hazard, not only every right of a nation, but the existence of the nation. There are boundary lines before war, and they are good against neutrals, and good between one another, unless something else happens; but the boundary lines and everything they have are put at stake by the war. If one party entirely conquers the other, it has a right to decide upon the future existence of the other nation and all its rights; and when our ancestors pledged their "lives, fortunes, and sacred honor" to maintain all their rights, including this right against the demands of

Parliament, I agree that they put this right, as they put their lives, at hazard; but, fortunately for us, the war did not turn out a conquest of any of our rights. At the close of the war, the Treaty of 1783 was made. Now, at the time when the Treaty of 1783 was made, Great Britain did not claim to have conquered America, or to have taken from us by military force any of our rights, and the consequence was that in framing the Treaty of 1783, while they altered, by common consent, some of the division lines, none by right of conquest, they declared that the people of the United States shall "continue to enjoy unmolested the right to take fish of every kind on the British Banks, and all other Banks of Newfoundland; also in the Gulf of St. Lawrence, and all other places in the sea where the inhabitants of both countries used at any time heretofore to fish." What could be stronger than that? It was an acknowledgment of a continued right possessed long before. And if any question of its construction arose, it appealed to what they had been heretofore accustomed to do; "where the inhabitants of both countries used at any time heretofore to fish."

How was it construed by British statesmen? Is there any doubt about it? I take it my brethren of the colonial bar will consider Lord Loughborough good authority. He said these words in the House of Lords respecting the fishery clause of the treaty: "*The fisheries were not conceded, but recognized as a right inherent in the Americans, which, though no longer British subjects, they are to continue to enjoy unmolested.*" The same thing, substantially, was said by Lord North, who had been, we are told now by his biographers, the unwilling, but certainly the subservient, instrument in the hands of his king for trying to deprive us of this as well as our other rights. We then did continue to enjoy them, as we had from 1620 down. We had as much right to them as the British Crown, because it was our bow and our spear that helped to conquer them. Then came the war of 1812, and we had enjoyed the fisheries freely, without geographical limit, down to that time. The war of 1812 certainly did not result in the conquest of America, either maritime or upon the land. It was fought out in a manly way between two strong people, without any very decided result; but after the war, in 1814, about the time we were making the treaty of peace at Ghent, that memorable correspondence took place between John Quincy Adams and Earl Bathurst, in which Earl Bathurst took this extraordinary position, that a war terminates all treaties. He took that position without limitation. Mr. Adams said, "Then it puts an end to our independence."

"No," was Earl Bathurst's answer; "your independence does not rest upon the treaty. The treaty acknowledged your independence as a fact, and that fact continues. No treaty now can take it from you; no treaty is needed to secure it to you; but so far as it was a treaty—I mean, so far as any right rested upon it as a treaty gift, or treaty stipulation, the war put an end to the treaty." Mr. Adams's answer was twofold; first, he denied the position. He took the ground, which all statesmen and jurists take to-day, that a war does not, *ipso facto*, terminate a treaty. It depends upon the results of the war; it depends upon the nature of the treaty; it depends upon its language and terms. Each case is *sui generis*. Whether any war—I mean the entering into war, the fact that the two nations are at war—terminates a treaty, depends upon these questions. The treaty is put at hazard, like all other things. The termination of the war may terminate all treaties by a new treaty, or by conquest; but the fact that there is war, which is the only proposition, does not terminate any treaty, necessarily. Then Mr. Adams further says: "Our right does not rest upon the treaty. The treaty of 1783

did not give us this right. We always had it. We continued to enjoy these rights without geographical limitation, and it was conceded that we did so by the Treaty of 1783, and we no more depend upon a treaty gift of 1783 for the right to these fisheries than we depend upon it for the enjoyment of our right to our independence." Of course, the gentlemen of the Commission are familiar with that correspondence, and I will go no further with it. The whole subject is followed up with a great deal of ability in that remarkable book which has been lying upon the table: I mean John Quincy Adams's book on "*The Fisheries and the Mississippi*," in connection with the Treaty of Ghent, and his reply to Mr. Jonathan Russell.

Well, the parties could not agree, and it went on in that way until 1818, and then came a compromise, and nothing but a compromise. The introduction to the Treaty of 1818 says: "Whereas differences have arisen respecting the liberty claimed by the United States and inhabitants thereof to take, dry, and cure fish in certain coasts, harbors, creeks, and bays of His Majesty's dominions in America, it is agreed between the High Contracting Parties"—it is all based upon "differences." Now, the position of the two parties was this: the people of the United States said, "We own these fisheries just as much to-day as we did the day that we declared war." Great Britain did not declare war, nor did she make a conquest. The declaration of war was from Washington, from the Congress of the United States, and it ended by a treaty which said nothing about fisheries, leaving us where we were. The ground taken by the United States was that the fisheries, irrespective of the three-mile limit, or anything else, belonged to us still. Great Britain said, "No; you lost them"; not by war, because Earl Bathurst is careful to say that the war did not deprive us of the fisheries, but the war ended the treaty, and the fisheries were appended solely to the treaty, and when the treaty was removed, away went the fisheries. Now, it is a singular thing in examining this treaty to find that there is nothing said about our right to take fish on the Banks, in the Gulf of St. Lawrence, and in the deep sea. The treaty of 1783 referred to that among other things, and it is well known that Great Britain claimed more than a jurisdiction over the fisheries. It claimed general jurisdiction and authority over the high seas, to which it appended no particular limit, and the claim admitted no limit. You were told by my learned associate, Judge Foster, a few days ago, that they arrested one of our vessels at a distance of sixty miles from the shore, claiming that we were within the King's chambers. Nothing is said in that treaty upon the subject. It is an implied concession that all those rights belong to the United States, with which England would not undertake after that ever to interfere. And then we stood in this position: that we had used the fisheries, though we did not border upon the seas, from 1620 to 1818, in one and the same manner, under one and the same right, and if the general dominion of the seas was shifted, it was still subject to the American right and liberty to fish.

I shall say nothing in this discussion about the right to land on shores for the purpose of drying nets and curing fish. That was a very antique idea. It has quite passed out now, fortunately, for your provinces are becoming well settled, and no right ever existed to land and dry fish where a private right is interfered with. There is no evidence to show that we ever practiced that right or cared anything about it. It was put in the treaty to follow the language of the old treaties, for whatever it might be worth.

Your honors will also observe that until 1830 the mackerel fisheries

were unknown. There was no fishery but the cod fishery. The cod fisheries were all the parties had in mind in making the Treaty of 1818, and to this day, as you have observed from some of the witnesses, "Fishing," by the common speech of Gloucester, fishing means, *ex vi termini*, cod-fishing is one thing and "mackereling" is another. In Mr. Adams's pamphlet, on the 23d page, he speaks of it as a "fishery," or in other words, cod fishery, and in 1818 the question was of the right of England to exclude. Now for the first time the doctrine respecting the three-mile line had begun to show itself in international law. Great Britain availed herself of it contrary to the instructions given by Queen Elizabeth—a very wise princess, certainly surrounded by very wise counselors; availed herself of it to set up a claim to exclude the deep-sea fishermen, though they did not touch the land or disturb the bottom of the sea for a distance of three miles out. We denied that there was any such right by international law, certainly none by treaty, and certainly none could be set up against us, who own the right to fish. But England was a powerful nation. She fought us in 1812 and 1814 with one hand—I acknowledge it, though it may be against the pride of American citizens—while she was fighting all Europe with the other, but she was now at peace. Both nations felt strong; both nations were taking breath after a hard conflict, and it was determined that there should be an adjustment, and there was an adjustment, and it was this: Great Britain tacitly waived all claim to exclude us from the high seas and from the King's chambers, except harbors and bays. She expressly waived all right to exclude us from the coasts of Labrador from Mount Joly, northward and eastward indefinitely through those tumbling mountains of ice, where we had always pursued our gigantic game. She expressly withheld all claim to exclude us from the Magdalen Islands and from the southern, western, and northern shores of Newfoundland; and as to all the rest of the Bay of St. Lawrence and the coasts of Nova Scotia and New Brunswick, we agreed to her right to exclude us. So that it stood thus: that, under that treaty, and only under that treaty, we admitted that Great Britain might exclude us for a distance of three miles from fishing in all the rest of her possessions in British North America, except those where it was expressly stipulated she should not attempt to do it. So she had a right to exclude us from the three-mile line from the shores of Cape Breton, Prince Edward Island, Nova Scotia, a portion of Newfoundland, and New Brunswick, and what has now become the Province of Quebec, while she could not exclude us from the coast of Labrador, the Magdalen Islands, and the rest of Newfoundland. There was the compromise. We got all that was then thought useful, with the right of fishing, with the right to dry nets and cure fish wherever private property was not involved. The Treaty of 1818 lasted until 1854—thirty-six years. So we went on under that compromise, with a portion of our ancient rights secured and another portion suspended, and nothing more.

Great changes took place in that time. The mackerel fishery rose into importance. You honors have had before you the interesting spectacle of an old man who thinks that he was the first man who went from Massachusetts into this gulf and fished for mackerel, in 1827, or thereabouts. He probably was. But mackerel fishing did not become a trade or business until considerably after 1830, and the catch of mackerel became important to us as well as to the colonies.

But there were great difficulties attending the exercise of this claim of exclusion—very great difficulties. There always have been, there always must be, and I prayst here always shall be such, until there be

free fishing as well as free trade in fish. We had upon the stand Captain Hardinge, of Her Majesty's Navy, now or formerly, who had taken an active part in superintending these fisheries, and driving off the Americans. He was asked whether the maintenance of this marine police was not expensive. He said that it was expensive in the extreme, that it cost £100,000—I believe that was the sum named. He did not know the amount, but his language was quite strong as to the expensiveness of excluding the Americans from these grounds, of maintaining these cruisers. But it also brought about difficulties between Great Britain and her provinces. The provincial authorities, on the 12th of April, 1866, after this time (but they acted throughout with the same purpose and the same spirit) undertook to say that every bay should be a British private bay which was not more than ten miles in width; following no pretence of international law, but the special treaty between Great Britain and France; and afterward they gave out licenses for a nominal sum, as they said, for the purpose of obtaining a recognition of their right. They did not care, they said then, how much the Americans fished within the three miles, but they wished them to pay a "nominal sum for a license," as a recognition of the right. Well, the "nominal sum" was 50 cents a ton; but by and by the colonial parliament thought that nothing would be a "nominal sum" unless it was \$1 a ton, and at last they considered that the best possible "nominal sum" was \$2.

But Her Majesty's Government took a very different view of that subject, and wherever there has been an attempt to exclude American fishermen from the three-mile line, there has been a burden of expense on Great Britain, a conflict between the Colonial Department at London and the Provincial authorities here, Great Britain always taking the side of moderation, and the Provincial Parliaments the side of extreme claim and extreme persecution. Then there was a difficulty in settling the three-mile line. What is three miles? It cannot be measured out, as upon the land. It is not staked out or buoyed out. It depends upon the eye-sight and judgment of interested men, acting under every possible disadvantage. A few of the earlier witnesses called by my learned friends for the Crown undertook to say that there was no difficulty in ascertaining the three-mile line, but I happened to know better, and we called other witnesses, and at last nobody pretended that there was not great difficulty. Why, for a person upon a vessel at sea to determine the distance from shore, everything depends upon the height of the land he is looking at. If it is very high, it will seem very much nearer than if it is low and sandy. The state of the atmosphere affects it extremely. A mountain-side on the shore may appear so near in the forenoon that you feel that you can almost touch it with your finger's ends, while in the afternoon it is remote and shadowy, too far altogether for an expedition with an ordinary day's walk to reach it. Now, every honest mariner knows that is so, and knows there is great difficulty in determining whether a vessel is or is not within three miles of the shore, when she is fishing. But there is, further, another difficulty. "Three miles from the shore"—what shore? When the shore is a straight or curved line, it is not difficult to measure it; but the moment you come to bays, gulfs, and harbors, then what is the shore? The headland question then arose, and the Provincial officials told us—the Provinces by their acts, and the proper officers by their proclamations, and the officers of their cutters, steam or sail—told our fishermen upon their quarter-decks—that "the shore" meant a line drawn from headland to headland, and they undertook to draw a line from the North Cape to the East Cape of Prince Edward Island and to say that "the shore"

meant three miles from that line; and then they fenced off the Straits of Northumberland; they drew another line from St. George's to the Island of Cape Breton; they drew their headland lines wherever fancy or interest led them. And not only is it true that they drew them at pleasure, but they made a most extreme use of that. We did not suffer so much from the regular navy, but the Provincial officers, wearing for the first time in their lives shoulder-straps and put in command of a vessel, "dressed in a little brief authority, played such fantastic tricks before high heaven" as might at any moment, but that it was averted by good fortune, have plunged the two countries into war. Why, that conflict between Pattillo and Bigelow amused us at the time, but I think your honors were struck with the fact that, as Pattillo escaped, was pursued, and the shots fired by his pursuers passed through his sail and tore away part of his mast and entered the hull, if they had shed a drop of American blood, it might "the multitudinous seas incarnadine" in war. Why, people do not go to war solely for interest, but for honor, and every one felt relieved, drew a freer breath, when he learned that no such fatal result followed. None of us would like to take the risk of having an American vessel within the three miles or without the three miles, but supposed to be within it, or actually within it for an innocent purpose, attacked by a British cutter, or attacked because she was within certain headlands, and blood shed in the encounter. Now, Great Britain felt that, and felt it more than the Provinces did, because she had not the same deep interest to blind her to the importance of the subject.

The results of the seizures were very bad. In the case of the *White Fawn*, tried before the judge at New Brunswick, he says, "This fact has not been accounted for, that so long a time has elapsed from the time of the seizure until the case was brought into court"; so that, although he discharged the ship as innocent, the crew were dispersed, the voyage was broken up, and no answer was made to that pertinent inquiry of his honor. It was a very common thing to hold vessels seized until it became immaterial to the owners, almost, whether they were finally released or finally convicted. My learned friend, Judge Foster, laid before your honors a Nova Scotia statute of 1836 (I confess I have not read it; I looked for it, but was not able to find it), in which he said there was a provision that if, in case of capture, an American seaman, fisherman, or master did not make true answers, he forfeited £100; that the onus, the burden of proof, to show that the vessel was not subject to capture was upon the owner, not upon the captor; that before the owner could contest the question with the man who seized his vessel, he must file a bond of £60 for costs; he could bring no suit against his captor until one month's notice, giving the captor an opportunity, as it is said, to obtain evidence, but, as a practical lawyer, I should add, giving him also an opportunity to escape and to conceal his property; finding treble costs in case the American was convicted; and also providing that the simple judicial signature, declaring that there was probable cause for the seizure, prevented any action or suit whatever.

Now, these were strong penal measures, unknown to anything but criminal law, and even stronger than the laws of war; because if in high war a vessel is seized and released, the owner of the vessel may sue the commander of the ship, though he bears the colors of Great Britain or of the United States; he may sue him in the courts of his own country without giving him any previous notice, without giving any previous bond, and no certificate of probable cause from the court will prevent the trying of the suit. I know it is true that if the court which tries

the suit decides that there was probable cause, the captain of the cruiser is not to be condemned, but the owner has a right to arrest and try him before a competent court. But all these rights were brushed away by the legislature of Nova Scotia—always supposing that Judge Foster was right in his statement of the character of that law.

Nor is that all, by any means. There was a further difficulty. No one could know what would become of us when we got into court. There was a conflict of legal decisions. One vessel might go free, when under the same circumstances another vessel might be condemned. The Treaty of 1818 did not allow us to go within three miles of certain shores, except for the purposes of shelter and getting wood or supplies, and prohibited fishing within three miles. An act of the 59th of George III was the act intended to execute that treaty. That act provided that "if any such foreign vessel is found fishing, or preparing to fish, or to have been fishing, in British waters, within three miles of the coast, such vessel, her tackle, &c., and cargo, shall be forfeited." That was the language of the statute of George III and of the Dominion statutes. Is it not plain enough—it seems to me, it has seemed so to all Americans, I think—that that statute was aimed, as the treaty was, against fishing within three miles? But in one court the learned judge who presides over it—a man of learning and ability, recognized in America and in the provinces, therefore giving his decision the greater weight—decided, first, that the buying of bait was a preparing to fish. We had supposed that the statute meant "for fishing within three miles, you will be condemned," and in order that it should not be required that a man should be caught in the very act of drawing up fish (which would be almost impossible), it was extended by saying, "or caught, having fished or preparing to fish"—such acts as heaving his vessel to, preparing his lines, throwing them out, and the like. The learned court decided, first, that buying bait, and buying it on shore, was "preparing to fish," within the meaning of the statute. If an American skipper went into a shop, leaned over the counter, and bargained with a man who had bait to sell on shore, he was "preparing to fish," and, as he certainly was within three miles of the shore, his preparation was made within three miles; and it was apparently utterly immaterial whether he intended to violate the provision of the treaty by fishing within three miles of the shore, so long as he was preparing, within three miles, to fish anywhere in the deep sea, on the Banks of Newfoundland, or in American waters. Then came the decision of another learned judge in New Brunswick (they were both in 1871), who said that buying bait was not the "preparing to fish" at which the statute was aimed; and, further, that it was essential to prove that the fishing intended was to be within three miles of the shore. There was a conflict of decisions, and we did not know where we stood.

Another effect of this restriction was, that it brought down upon the Dominion fishermen the statute of the United States, laying a duty of two dollars a barrel upon every barrel of mackerel, and one dollar a barrel upon every barrel of herring. That statute was—and I shall presently have the honor to cite the evidence upon that point, that I may not be supposed to rely upon assertion—that statute was, in substance, prohibitory. The result was, that it killed all the vessel fishing of these provinces. They had no longer seamen who went to sea in ships. A shore fishery sprung up for the use of the people themselves, and was gradually somewhat extended—I mean a boat fishery around the shores. But, as I shall cite authorities to show, as I hope that your honors already believe, the first effect was to draw away from these provinces the en-

terprising and skilled fishermen who had fished in their vessels and sent their catches to the American market. It drew them away to the American vessels, where they were able, as members of American crews, to take their fish into market free of duty.

There was, at the same time, a desire growing on both sides for reciprocity of trade, and it became apparent that there could be no peace between these countries until this attempt at exclusion by imaginary lines, always to be matters of dispute, was given up—until we came back to our ancient rights and position. It was more expensive to Great Britain than to us. It made more disturbance in the relations between Great Britain and her provinces than it did between Great Britain and ourselves; but it put every man's life in peril; it put the results of every man's labor in peril; and for what? For the imaginary right to exclude a deep-sea fisherman from dropping his hook or his net into the water for the free-swimming fish, that have no habitat, that are the property of nobody, but which are created to be caught by fishermen. So at last it was determined to provide a treaty by which all this matter should be set aside, and we should fall back upon our own early condition.

Now, your honors will allow me a word, and I hope you will not think it out of place—it is an interesting subject; I do not think it is quite out of place, and I will not be long upon it—on the nature of this right which England claimed in 1818, to exclude us from the three miles, by virtue of some supposed principle of international law. I have stated my opinion upon it; but your honors will be pleased to observe, that on that, as upon the subject of headlands, on an essential part of it, without which it can never be put in execution, there is no fixed international law. I have taken pains to study the subject; have examined it carefully since I came here, and I think I have examined most of the authorities. I do not find one who pledges himself to the three-mile line. It is always “three miles,” or “the cannon-shot.” Now, “the cannon-shot” is the more scientific, though not the more practical, mode of determining the question, because it was the length of the arm of the nation bordering upon the sea, and she could exercise her rights so far as the length of her arm could be extended. That was the cannon-shot, and that, at that time, was about three miles. It is now many more miles. We soon began to find out that it would not do to rest it upon the cannon-shot. It is best to have something certain. But international writers have arrived at no further stage than this, to say that it is “three miles, or the cannon-shot.” When they are called upon to determine what are the rights of bordering nations, they say, “to the extent of three miles, or the cannon shot.” But upon the question, “How is the three-mile line to be determined?” we find everything utterly afloat and undecided. My purpose in making these remarks is, in part, to show your honors what a precarious position a state holds which undertakes to set up this right of exclusion and to put it in execution. The international law makes no attempt to define what is “coast.” We know well enough what a straight coast is, and what a curved coast is; but the moment they come to bays, harbors, gulfs, and seas, they are utterly afloat—as much as the sea-weed that is swimming up and down their channels. They make no attempt to define it, either by distance or by political or natural geography. They say at once, “It is difficult, where there are seas and bays.” Names will not help us. The Bay of Bengal is not national property; it is not the King's chamber; nor is the Bay of Biscay, nor the Gulf of Saint Lawrence, nor the Gulf of Mexico. Names will not help us. An inlet of the sea may be called a “bay,” and it may be two miles wide at its entrance; or it may be called a “bay,”

and it may take a month's passage in an old-fashioned sailing vessel to sail from one headland to the other. What is to be done about it? If there is to be a three-mile line from the coast, the natural result is, that that three-mile line should follow the bays. The result then would be that a bay more than six miles wide was an international bay; one six miles wide, or less, was a territorial bay. That is the natural result. Well, nations do not seem to have been contented with this. France has made a treaty with England saying that anything less than ten miles wide shall be a territorial bay.

The difficulties on that subject are inherent, and, to my mind, they are insuperable. England claimed to exclude us from fishing in the Bay of Fundy, and it was left to referees, of whom Mr. Joshua Bates was umpire, and they decided that the Bay of Fundy was not a territorial bay of Great Britain, but a part of the high seas. This decision was put partly upon its width; but the real ground was, that one of the assumed headlands belonged to the United States, and it was necessary to pass the headland in order to get to one of the towns of the United States. For these special reasons, the Bay of Fundy, whatever its width, was held to be a public and international bay.

Then look at Bristol Channel. That question came up in the case of *Queen v. Cunningham*. A crime was committed by Cunningham in the Bristol Channel, more than three miles from the shore of Glamorganshire, on the north side, and more than three miles from Devonshire and Somersetshire, on the south side. Cunningham was indicted for a crime committed in Glamorganshire. The place where the vessel lay was high up in the channel, somewhere about 90 miles from its mouth, and yet not as far up as the river Severn. The question was, whether that was a part of the realm of Great Britain, so that a man could be indicted for a crime committed there. Now, there is a great deal of wisdom in the decision made in that case. The court say, substantially, that each case is a case *sui generis*. It depends upon its own circumstances. Englishmen and Welshmen had always inhabited both banks of the Bristol Channel. Though more than ten miles in width at its entrance, it still flowed up into the heart of Great Britain; houses, farms, towns, factories, churches, court-houses, jails—everything on its banks; and it seemed a preposterous idea, and I admit it, that in time of war two foreign ships could sail up that Bristol Channel and fight out their battle to their own content, on the ground that they did not go within three miles of the shore. I think it would have been preposterous to say that a foreign vessel could have sailed up the center of that channel, and defied the fleets and armies of Great Britain, and all her custom-house cutters, on the ground that she was flying the American or the French flag, and the deck was a part of the soil under that flag. Well, it was a question of political geography, not of natural geography. It was a question of its own circumstances. It was decided to be a part of the realm of Great Britain. I do not know that anybody can object to the decision.

The *Franconia* case, which attracted so much attention a short time ago, did not raise this question, but it is of some importance for us to remember. There there was no question of headlands. It was a straight line of coast, and the vessel was within three miles of the shore. But what was the ship doing? She was beating her way down the English Channel against the sea and wind, and she made her stretches toward the English shore, coming as near as safety permitted, and then to the French shore. She was in innocent use of both shores. She was not a trespasser because she tacked within three miles of the British shore

It was a necessity, so long as that channel was open to commerce. The question which arose was this: A crime having been committed on board of that ship while she was within three miles of the British coast, was it committed within the body of the county? Was it committed within the realm, so that an English sheriff could arrest the man, an English grand jury indict him, an English jury convict him, under English law, he being a foreigner on board a foreign vessel, bound from one foreign port to another, while perhaps the law of his own country was entirely different? Well, it was extraordinary to see how the common-law lawyers were put to their wits' end to make anything out of that statement. The thorough-bred common-law lawyers were the men who did not understand it; it was others, who sat upon the bench, who understood it better; and at last, by a majority of one, it was most happily decided that the man had not committed an offense within a British county, and he was released. That case turned not on a question of natural geography, nor on a question of political geography. It raised the issue: What is the nature of the authority that a neighboring nation can exercise within the three-mile limit?

I am naturally led to the question: "Does fishing go with the three-mile line?" I have the honor to say to this tribunal that there is no decision to that effect, though I admit that there is a great deal of loose language in that direction. I do not raise any question respecting those fish that adhere to the soil or to the ground under the sea. But on what does that three-mile jurisdiction rest, and what is the nature of it? I suppose we can go no further than this, that it rests upon the necessities of the bordering nation; the necessity of preserving its own peace and safety and of executing its own laws. I do not think that there is any other test. Then the question may arise, and does, whether, in the absence of any attempt by statute or treaty to prohibit a foreign vessel from following with the line or the seine and net the free swimming fish within that belt, that act makes a man a trespasser by any established law of nations? I am confident it does not. That, may it please the tribunal, is the nature of this three-mile exclusion, for the relinquishment of which Great Britain asks us to make pecuniary compensation. It is one of some importance to her, a cause of constant trouble, and, as I shall show you—as has been shown you already by my predecessors—of very little pecuniary value to England in sharing it with us, or to us in obtaining it, but a very dangerous instrument for two nations to play with.

I would say one word here about the decision in the privy council in 1877 respecting the territorial rights in Conception Bay. I have read it over, and though I have very great respect for the common-law lawyer Mr. Blackburn, who was called upon to pronounce upon a question entirely novel to him, I believe that if your honors think it at all worth while to look over this opinion, in which he undertakes to say that Conception Bay is an interior bay of Newfoundland, and not public waters, although it is some fifteen or more miles wide, you will find that he makes this statement, which is conclusive, that an act of Parliament is binding upon him, whether the act of Parliament be in conformity with international law or not. But it is not binding upon you, nor is the decision. But there is nothing in the act of Parliament which speaks upon that subject. It is the act 59 George III, intended to carry out the Treaty of 1818, and for punishing persons who are fishing within the bays; and he infers from that, by one single jump, without any authority whatever of judicial decision or legislative language, that it

must have meant to include such bays as the bay in question. (Direct United States Cable Company *vs.* Anglo-American Telegraph Company, English Law Reports, Appeal Cases, part 2, p. 394.)

This state of things brought us to the Treaty of 1854, commonly called the Reciprocity Treaty. The great feature of that treaty, the only one we care about now, is, that it put us back into our original condition. It acknowledged our general right. It made no attempt to exclude us from fishing anywhere within the Gulf of St. Lawrence, and it allowed no geographical limits. And from 1854 to 1866 we continued to enjoy and use the free fishery, as we had enjoyed and used it from 1820 down to that hour.

But the Treaty of 1854 was terminated, as its provisions permitted, by notice from the United States. And why? Great Britain had obtained from us a general free trade. Large parts of the United States thought that free trade pressed hardly upon them. I have no doubt it was a selfish consideration. I think almost every witness who appeared upon the stand at last had the truthfulness to admit that when he sustained either duties or exclusion it was upon the selfish motive of pecuniary benefits to himself, his section, his State, or his country; and if that were the greatest offense that nations or individual politicians committed, I think we might well feel ourselves safe. We had received, in return for this advantage, a concession from Great Britain of our general right to fish, as we always had fished, without geographical exclusion. My learned friend Judge Foster read to you (which I had not seen before, and which was very striking) the confidential report of Consul Sherman, of Prince Edward Island, in 1864. I dare say my learned friend the counsel from that island knows him. Now, that is a report of great value, because it was written while the treaty was in existence, and before notice had been given by our government of the intention to repeal it. It was his confidential advice to his own country as to whether our interests, as he had observed them, were promoted by it; and he said, if the Reciprocity Treaty was considered as a boon to the United States, by securing to us the right to inshore fishing, it had conspicuously failed, and our hopes had not been realized. I think these are his very words. He spoke with the greatest strength to his country, writing from Prince Edward Island, which claims to furnish the most important inshore fishery of any, and declared that, so far as the United States was concerned, the benefit that came from that was illusory, and it was not worth while for us any longer to pay anything for it. And that, as your honors have seen, and as I shall have the pleasure to present still further by and by, was borne out by the general state of feeling in America.

The result was that in 1866 the Reciprocity Treaty was repealed. That repeal revived, as my countrymen admitted, the Treaty of 1818, and it revived, of course, the duties on the British importation of mackerel and herring. We were remitted to the antiquated and most undesirable position of exclusion; but we remained in that position only five years, from 1866 until 1871, until a new treaty could be made, and a little while longer, until it could be put into operation. What was the result of returning to the old system of exclusion? Why, at once the cutters and the ships of war that were watching these coasts spread their sails; they stole out of the harbors where they had been hidden; they banked their fires; they lay in wait for the American vessels, and they pursued them from headland to headland, and from bay to bay; sometimes a British officer on the quarter-deck, and then we were comparatively safe, but sometimes a new-fledged provincial, a temporary

officer, and then we were anything but safe. And they seized us and took us, not into court, but they took us into harbor, and they stripped us, and the crew left the vessel, and the cargo was landed, and at their will and pleasure the case at last might come into court. Then, if we were dismissed, we had no costs, if there was probable cause; we could not sue if we had not given a month's notice, and we were helpless. Not only did it revive the expensive and annoying and irritating and dangerous system of revenue-cutters, and secret police, marine police, up and down the coast, telegraphing and writing to one another, and burdening the provinces with the expense of their most respectable and necessary maintenance, but it revived, also, the collisions between the provinces and the Crown; and when the provincial governments undertook to lay down a ten mile line, and say to the cutters, "Seize any American vessel found within three miles of a line drawn from headland to headland, ten miles apart." such alarm did it cause in Great Britain, that the Secretary of State did not write, but telegraphed instantly to the provinces that no such thing could be permitted, and that they could carry it no farther than the three mile line. Then attempts were made to sell licenses. Great Britain said, "Do not annoy these Americans; we are doing a very disagreeable thing; we are trying to exclude them from an uncertain three mile line; we would rather give up all the fish in the ocean than have anything to do with it; but you insist upon it; we have done nothing with that fishery from the beginning," which, according to the view we took of it on our side of the line, was pretty true; and they said, "Do not annoy these Americans; give them a license, just for a *nominal* fee." So they charged a nominal fee, as I have said, of fifty cents a ton, which was afterward raised—they know why, we do not—to a dollar. We paid the fifty-cent fee and some Americans paid the dollar fee; and why? They have told you why. Not because they thought the right to fish within three miles was worth that sum, but it was worth that sum to escape the dangers and annoyances which beset them, whether they were innocent or guilty under the law.

Then, at last, the provinces, as if determined that there should be no peace on that subject until we were driven out of the fisheries, raised it to an impossible sum, two dollars a ton, and we would not pay it. What led them to raise it? What motive could there have been? They lost by it. Our vessels did not pay it. Why, this was the result—I do not say it was the motive—that it left our fishermen unprotected, and brought out their cutters and cruisers, and that whole tribe of harpies that line the coast, like so many wreckmen, ready to seize upon any vessel and take it into port and divide the plunder. It left us a prey to them and unprotected. It also revived the duties, for we, of course, restored the duty of two dollars a barrel on the mackerel and one dollar a barrel on the herring. It caused their best fishermen to return into the employment of the United States, and their boat-fishing fell off. That has been stated to your honors before, but it cannot be too constantly borne in mind. We restored the duties, and that broke up the vessel-fishing of the provinces; it deprived them of their best men; it caused trouble between the old country and the provinces; it put us all on the trembling edge of possible international conflict. But we went on as well as we could in that state of things, until Great Britain, desirous of relieving herself from that burden, and the United States desiring to be released from those perils, and having also another great question unsettled, that is, the consequences of the captures by the Alabama, the two countries met together with High Commissioners at Wash-

ington, in 1871, and then made a great treaty of peace. I call it a "treaty of peace" because it was a treaty which precluded war; not restored peace after war, but prevented war, upon terms most honorable to both parties; and as one portion of that treaty—one that, though not the most important by any means, nor filling so large a place in the public eye as did the congress at Geneva, yet filling a very important place in history, and its consequences to the people of both countries, was the determination of this vexed and perpetual question of the rights of fishing in the bays of the Northwestern Atlantic; and by that treaty we went back again to the old condition in which we had been from 1620 down, with the exception of the period between 1818 and 1854 and the period between 1866 and 1871. That restored both sides to the only condition in which there can be peace and security; peace of mind at least, freedom from apprehension, between the two governments.

And when those terms were made, which were terms of peace, of goodwill to men, of security for the future, and of permanent basis always, and we agreed to free trade mutually in fish and fish-oil, and free rights of fishing, as theretofore almost always held, Great Britain said, "Very well; but there should be paid to us a money-compensation." The United States asked none; perhaps it did not think itself entitled to any. Great Britain said, "This is all very well; but there should be a compensation in money, because we are informed by the provinces"—I do not believe that Great Britain cared anything about it herself—"that it is of more pecuniary value to the Americans to have their right of fishing extended over that region from which they have been excluded than it is to us to have secured to us free right to sell all over the United States the catchings of Her Majesty's subjects, free from any duty that the Americans might possibly put upon us." "Very well," said the United States, "if that is your view of it, if you really think you ought to have a money-compensation, we will agree to submit it to a tribunal." And to this tribunal it is submitted: First, under Article XVIII of the Treaty of 1871, what is the money-value of what the United States obtains under that article? Next, what is the money-value of what Great Britain obtains under Articles XXI and XIX? Second, is what the United States obtains under Article XVIII of more pecuniary value than what Great Britain obtains under her two articles? Because I put out of sight our right to send to this market and the right of the people of the provinces to fish off our coasts, as I do not think either of them to be of much consequence. "If you shall be of opinion," says the treaty, "that there is no difference of value—and of course that means no *substantial* difference in value—then your deliberations are at an end; but if you shall think there is a substantial difference in value, then your deliberations must go further, to show what the two values are, which is the greater, and what is the difference."

I hope, if your honors are not already persuaded, that you will be before the close of the argument on the part of the United States, and may not be driven from that persuasion by anything that may occur on the other side, that the United States were quite honest when they made the statement in 1871 that in asking for the abandonment of the restrictive system in regard to the fisheries, they did not do it so much from the commercial or intrinsic value of the fishing within the three-mile line, as for the purpose of removing a cause of irritation; and I hope that the members of this tribunal have already felt that Great Britain, in maintaining that exclusive system, was doing injustice to herself, causing herself expense, loss, and peril; that she was causing irritation and danger to the United States; that it was maintained from a mis-

taken notion, though a natural one, among the provinces themselves, and to please the people of the Dominion and of Newfoundland, and that the great value of the removal of the restriction is, that it restores peace, amity, and good-will; that it extends the fishing so that no further question shall arise in courts or out of courts, on quarter-decks or elsewhere, whatever may be the pecuniary value of the mere right of fishing by itself; and that it would be far better if the Treaty of Washington had ended with the signing of the stipulations, except so far as the Geneva award was concerned, and that this question had not been made a matter of pecuniary arbitration; that either a sum of money had been accepted at the time for a perpetual right, as was offered, or that some arrangement by which there should be the mutual right of free trade in timber, in coal, and in fish, or something permanent in its character, should have been arranged between the two countries. But that is a by-gone; we are to meet the question as it comes now directly before us. I think my learned friend, Judge Foster, said all that need be said, and all that can be said of much value, in taking the position that we are not here to be cast in damages; we are to pay no damages, nor are we to pay for incidental commercial privileges, nor are they to pay for any; but it is a matter of remark, certainly, that when this cause came up, we were met by a most extraordinary array of claims on the opposite side, sounding in damages altogether, or sounding in purchase of commercial privileges which were not given to us by Article XVIII of the treaty. Why, if there was a British subject in Prince Edward Island who remembered that his wife and family had been frightened by some noisy, possibly drunken, American fisherman, he was brought here and testified to it, and he thought that he was to obtain damages. Undoubtedly that was his opinion. If a fisherman in his boat thought that a Yankee schooner "lee bowed" him, as they call it, he was brought here to testify to it, and that was to be a cause of damage and to be paid for, and ultimately, I suppose, to reach the pockets of those who in their boats had been "lee-bowed," for that would seem to be poetic justice. Then we had the advantage of being able to buy our bait here, which we had always done, about which no treaty had ever said a word, and they had the great advantage, too, of selling us their bait. They went out fishing for themselves, they brought in the bait, they sold it to us, and when our vessels came down after bait or for frozen herring, they boarded the vessels in their eagerness to be able to sell them; and so great was their need of doing something in that season of the year when those mighty merchants of Newfoundland and those mighty middle-men of Newfoundland, planters, had nothing for them to do, that they made a bargain to furnish us frozen herring and our fishing bait at so much a barrel, went out and got it for us, and brought it on board.

Those were privileges for which the Americans were also to pay something. I have no doubt that those ideas gained great currency among the people of these provinces. They supposed it to be so, and hence a great deal of the interest which they took in the subject; hence the millions that they talked about. It is impossible to tell what limitation could have been put by this tribunal upon the demand, if you had opened that subject, and made up an award on the right to buy bait, on the right to buy frozen herring, on the right to buy supplies, on the right to trade, not considering that these are mutual rights, for the benefit of both parties, and as to which it is almost impossible to determine which party gains the most. Then a great deal of anxiety was created through the provinces, undoubtedly, by the cry that we were ruining their fisheries by the kind of seines that we were using—purse-seines; we were

destroying the fish, and the ocean would be uninhabitable by fish; would be a desert of water. We were told that we were poisoning their fish by throwing gurry overboard, and for all that there were to be damages. Now, these inflammatory harangues, made by politicians, or published in the Dominion newspapers, or circulated by those persons who went about through the Dominion obtaining affidavits of witnesses, produced their effect, and the effect was a multitude of witnesses who swore to those things, who evidently came here to swear to them, and took more interest in them, and were better informed upon them, than upon any of the important questions which were to be determined. When we came to evidence to be relied upon, the evidence of men who keep books, whose interest it was to keep books, and who kept the best possible books, men who had statistics to make up upon authority and responsibility, men whose capital and interest and everything were invested in the trade, then we brought forward witnesses to whom all persons looking for light upon this question would be likely to resort. And I have no doubt that as fast as it became known through the line of these provinces that no damages would be given for "lee-bowing," for poisoning fish, for purse-nets (which it appears we could not use), nor for the right to buy bait, and that it was to come down to the simple question of, on the one hand, participating with them in the fisheries of this region to the full extent, instead of to a limited extent, and they be relieved from all duties on their fish and fish-oil on the other, with the consequent stimulation of their boat-fishing, and vessel building and fishing, they all began to look at it in a totally different aspect. I am not able to produce it at this moment, but I will produce before the argument closes a memorial addressed to the Province of Nova Scotia, requesting them to bring things back to the old condition—that the fishing shall be left in common—without any idea that free trade was to be set off against it.

Such was the state of things and the condition of feeling in the provinces. I need not press upon your honors that we are right in that position, for, as to all except the question of damages, your honors have already by a unanimous vote passed in our favor, and of course it requires no argument to show that, as we are to make compensation for the value of what we obtain under the Article XVIII of the Treaty of 1871 in addition to what we had under the Treaty of 1818, provided the British side of the account does not balance it, that is all that we have to consider; and I dismiss all those elements which have undoubtedly been the prevailing means of securing witnesses and of stimulating witnesses throughout these provinces, up to the present time.

After the sound sense and humor of my learned friend, Mr. Trescott, on the subject of the light-houses, I suppose I should be inexcusable if I touched upon them again. I see that the counsel on the other side already feel the humor of the thing, and I suppose they rather regret that the subject was ever opened, because it shows to what straits they were driven to make up a case against the United States, to balance the overpowering advantage to them derived from the freedom of trade. Why, they come together, the wise men, and they say among themselves, "Free trade is a boon to us in our mackerel and in our herring; it is stimulating our fisheries; it is recalling our sons from afar, and employing them at home in our own industries; it is building up boat-fishing; it is extending the size of our boats, and building up vessel-fishing; the profits on our trade are now all that we have a right to make, with no discount whatever. How can we meet that case of advantage? What can we say they ought to pay us, that shall be any-

thing like a set-off for what we ourselves have received? The right to fish within three miles? Why, the Americans had the whole Gulf of St. Lawrence and all its bays; they had all its banks and all its eddies; they had Labrador and the Magdalen Islands; they had the north, west, and south parts of Newfoundland; they had everything except the three-mile line of the island, as it is called, and the western shore of Nova Scotia. And what did they get? Not the value of the fish; not what the fish sold for in the American market; not the profit which the American dealer made on his fish. That is the result of his capital, industry, and labor. What did the American get? The value of the fish as it lies writhing on the deck? No; for that is the result of the capital that sends the ship and fits it out, of the industry and the skill of the fishermen. What did they get? They got only the liberty of trying to catch the fish, which were eluding them with all their skill in the water of the ocean; the right to follow them occasionally, if they desire to do so, in their big vessels within the limits of three miles.

But it will not do to go to such a tribunal as this with such a case as that. The free-swimming fish in the seas, going we do not know how far off, and showing themselves here to-day and there to-morrow, schooling up on the face of the sea, and then going out of sight in the mud, having no habitat, and being nobody's property—the right to try to catch them nearer the shore than heretofore, that is not capable of being assessed so as to be of much pecuniary value; we must have something else." So they started the theory of adding to this compensation that ought to be made for right to buy the bait; for a right to refit; for a right to get supplies; for a right to trade; to unload cargoes of fish at Canso and send them to the United States, and for all the damage that fishermen might do anywhere by their mode of fishing; for the injury done by throwing overboard the gurry, and for collisions between boats and vessels that might occur in the waters of the island bend; and, adding those all together, they might make a claim that what they lost in damages, and what they gave to us in facilities of trade, added to Article XVIII might make up something to set off against what they knew they were receiving in dollars and cents from us by the remission of duties. They felt that we had on our side a certainty; they had on their side altogether an uncertainty, and a mere speculation; that we remitted from our Treasury and put back into their pockets exactly two dollars a barrel on every barrel of mackerel sent into port, and one dollar on every barrel of herring, that was to be computed and estimated, so that the British fisherman, when he landed his fish on the wharf in Boston, landed it on the same terms that the American landed his while heretofore he landed it handicapped by two dollars a barrel, which he must first pay. Our charge is substantial; ours can be put into the columns of an account; ours is certain. Theirs is speculative and uncertain, and unless it was backed up with some certainties of damages and of trade, they felt that it fell beneath them.

It will be my duty hereafter to press upon your honors a little further the consideration of the utterly uncertain estimate that can be put upon the mere franchise or liberty of attempting to catch the free-swimming fish within certain limits of the ocean. Now, first, with your honors' leave, I will take up the consideration of the money value of the removal of this geographical restriction, for that is what it is. The ancient freedom is restored; the recent and occasional restrictions as to three miles is removed, and the colonists say that that has been of pecuniary value to us. Whether it is a loss to them or not, is utterly immaterial, in this consideration. They cannot ask you to give them damages for any loss

to them. It is only the value to us. It is like a person buying an article in a shop, and an arbitrator appointed to determine what is the value of that article to the purchaser. It is quite immaterial how great a mistake the man may have made in selling it to him, or what damage the want of it may have brought upon his family or himself. If I have bought an umbrella across the counter, and I leave it to an arbitrator to determine the value of the umbrella to me, it is totally immaterial whether the man has sold the only one he had, and his family have suffered for the want of it. That is a homely illustration, but it is a perfectly true one. The question is, what is the value to the citizens of the United States, in money, of the removal of this geographic restriction? Not what damage this may have been to the colonists, by reason of the treaty which Her Majesty's Government saw fit to make with us.

What, then, is the money-value of the removal of the restriction? On the subject of Newfoundland, which I desire to treat with great respect, because of the size of the island and its numerous bays, and because of my respect and affection for the gentleman who represents the semi-sovereignty before this tribunal, there is an article in the *Revue des Deux Mondes* of November, 1874, on the value of Newfoundland and its fisheries to France, of extreme interest, from which I would like to quote largely. It seems to me to be exhaustive. It gives the whole history and present condition of these fisheries, and among other things, it shows that in attempting to grant us a right there, Great Britain made us overlap very much the rights of the French; and that if we should undertake to carry into effect some of the rights given us by the Treaty of 1871, we might have the republic, or monarchy, or empire, or whatever it may be, on the other side of the water, to settle the question with as well as this tribunal. I suppose this tribunal is satisfied that we do not catch cod within three miles of Newfoundland; that we do not catch even our bait there, but that we buy it. Finding that we had proved a complete case, that we bought our bait there, the very keen argument was made by the counsel on the other side, that though we bought our bait, we must be held to have caught it. "*Qui facit per alium, facit per se*," says the counsel; and so, if you buy a thing of a man and he sends a boy out to get it, the boy is your messenger, not his; and you have not bought it of him, but of the person to whom he sends for it. This is a homely illustration, but it is perfectly plain. When a fisherman comes and says, "I will sell my fish at so much a pound," and has not got them, but goes off and catches them, and I pay him that price, I buy the fish of him, do I not? What is it but a mere illusion, a mere deception, a mere fallacy to say, that because I knew that he had not the fish on hand at the time and is going off to get it, though I agree to buy it of him at a fixed rate, and I am not going to pay him for his services, but for the fish when delivered, that I am fishing through him and not buying of him? It is very hard to argue a perfectly clear case, and one that has but one side to it. Nothing but stress of law, or stress of facts, or stress of politics, could possibly have caused so much intelligence to be perverted upon this subject into an attempt to show that we were the catchers of the Newfoundland bait.

I will now take up for a moment the question of the cod fisheries, and I know that, whatever I may have been thus far, I shall be somewhat tedious here in the course which I am about to pursue; but I do not wish it to be said on the other side, and my instructions are not to leave it to be said, that we have asserted and stopped at assertions, however certain we may be that our assertions are well-founded, and even that they have the approbation of the court. I shall endeavor to refer to

the evidence, without reading much of it, on the principal points which I have so far assumed, and would be quite authorized in assuming.

In the first place, as to the cod fishery, it is a deep-sea fishery not a fishery within three miles. I do not mean to say that a stray cod may not be caught occasionally within that limit; but as a business, it is a deep-sea business. With your honors' permission I will read some of the evidence on that point.

Nathaniel E. Atwood, of Provincetown, page 47 of the American evidence, says:

Q. Is the codfishery, as pursued by the Americans, exclusively a deep-sea fishery?—A. Well, we call it a deep-sea fishery; this is the case—the Labrador coast excepted, where it is prosecuted close inshore—in the Gulf of Saint Lawrence, on the Grand Banks and on all the Banks between that place and Cape Cod, and away out to sea in other parts. It is true that some codfish come inshore, but they do not do so to such an extent as to enable the catching of them to be made a business of.

Wilford J. Fisher, of Eastport, page 316, says:

Q. How about the pollock?—A. The pollock is caught more off shore than in.
Q. Then the codfish?—A. The codfish is caught almost exclusively off shore, except, as I tell you, in the early spring or late in the fall there is a school of small codfish that strikes within the limits, and the people there catch them more or less.

Prof. Baird, on page 455, of the American evidence, says:

Q. Take them as a whole then, they are a deep-sea fish; I don't mean the deep sea as distinguished from the Banks?—A. An outside fish? Well, they are to a very considerable extent. The largest catches are taken off shore, and what are taken inshore are in specially-favored localities, perhaps on the coast of Labrador, and possibly off Newfoundland. They bear a small proportion generally to what is taken outside, where the conveniences of attack and approach are greater.

Bangs A. Lewis, of Provincetown, page 96, American evidence, says, on cross-examination, in answer to Mr. Davies:

Q. And codfish, we all know, are taken chiefly outside of the limits; it is a deep-sea fishery as a rule?—A. Yes.

E. W. French, of Eastport, page 403, is asked:

Q. What is the fishery at Grand Manan and the Bay of Fundy generally?—A. Codfish, pollock, hake, haddock, and herring.

Q. Are any of those fisheries entirely off-shore fisheries?—A. Codfish is an off-shore fishery. Hake are taken off shore.

Capt. Robert H. Hulbert, of Gloucester, p. 296, testifies:

Q. And your codfish have not been taken within how far from land?—A. From 15 to 25 miles of Seal Island, and in that vicinity.

John Nicholson, Louisburg, C. B., p. 207 of the British evidence, says:

Q. Well, cod are often caught inshore; but would you not say cod was a deep-sea fishery?—A. Yes.

Q. And halibut is the same?—A. Yes.

These are only passages selected from a large mass of testimony, but they were selected because the persons who testified in that way were either called by the British side, or they were persons of so much experience that they are fair specimens of our view of the subject.

Now, cod fishery is the great trade and staple of the United States, and is growing more and more so. The small fish that were once thrown overboard are now kept. The oil is used a great deal, codfish-oil, and there are manufacturing establishments in Maine, Connecticut, and Massachusetts which, we have been told by the witnesses, work up a great deal of this material that used to be thrown overboard; they draw oil from it, and the rest is used for fertilizing the land, and that is a

gradually increasing business. One of the witnesses, I recollect, from Gloucester, told us how greatly the trade in codfish had improved, so that now, instead of sending it out as whole fish, it is cut in strips and rolled together, and put into cans, and sold in small or large quantities to suit purchasers, and in that very easy manner sent all over the United States.

Charles N. Pew, of the firm of John Pew & Sons, on page 496 of the American Evidence, testified that the total value of fish production in seven years from 1870 to 1876, inclusive, was:

Bay mackerel	\$77,995 22
Shore mackerel	271,333 54
Codfish, &c	702,873 10
	<hr/>
	1,052,201 86

These figures give what our vessels caught. They do not give what we purchased outside of what the vessels caught.

The cod fishery is also one as to which there is no fear of diminution, certainly none of its extermination. Professor Baird told us, on p. 456 of the American Evidence, that a single cod produces from three to seven million eggs, each one capable of forming another living animal in the place of its mother. He said that owing to the winds and storms to which they were exposed, and by their being devoured by other fish which sought for them, the best information was that about a hundred thousand of these eggs prosper so as to turn into living fish, capable of taking care of themselves, the undefended and unrestricted navigators of the ocean. Although that is not a large percentage of the amount of ova, yet an annual increase of a hundred thousand for every one shows that there is no danger of the diminution, certainly none of the extermination, of that class of fish. It is enormous in quantity, something which the whole world combining to exterminate could hardly make any impression upon; and when the argument is made here that we ought to pay more for the right to fish because we are in danger of exterminating what codfish we have—if that argument is made—it amounts to nothing. But if the further argument is made, that we have no cod fishery to depend upon, then we have the statistics, and we have information from witnesses from all parts, that the cod fishery shows no signs of diminution, and that it is as large and extensive and as prosperous as ever. Gloucester has gone more into the business than it ever has before, and I do not recollect that there is any evidence, of the least value, showing that that fishery is likely to fall off materially as a commercial product in our hands. There is a single British concurrence out of several others, I think, in this statement, which I will read.

George Romeril, agent of Robin & Co., one of the British witnesses, page 306, says:

Q. Is there much difference in the results of the cod fishery year after year?—A. No; just as much fish are now caught as ever was the case.

Q. In making this statement, you refer to an experience of 21 years?—A. Yes.

Q. What is your evidence on this point?—A. That the cod fishery is not precarious.

Q. You have always an average catch?—A. It is always about the same.

Q. This fishery can always be depended upon?—A. Yes.

Q. Do those who engage in this fishery as a rule make a living?—A. A thriving fisherman will always make a good living about our coast.

Q. But what will a fair average man do?—A. He can always make a good living.

I read that, because it is the testimony of an intelligent British witness, who represents one of those great Jersey firms that deal in codfish on the west coast of the gulf.

The bait of the codfish need not be caught within the three-mile line.

That, I think, we have pretty well established. I referred just now to their argument, that we caught whatever we bought, but that I certainly may pass by. We may buy it when we wish it, but we need not have it. Your honors recollect the testimony of our witnesses from Provincetown, as well as those from Gloucester, who said that they believed it was more for the interest of all concerned that the cod fishery should be carried on with bait kept in ice as long as it can be, and salted bait—with fish, and bait, and liver, and everything else that can be carried out and kept there, and what birds and fish can be caught on the Banks, and the vessels stick to their business. The testimony was uniform; there was not one who failed to join in the expression of opinion, that that course was far better for the mercantile purposes of our community than that our fishermen should run inshore and buy the bait. But if they did go inshore and buy the bait, it would be a question entirely beyond your honors' consideration. We have a right to buy it where we please, even here, and we certainly need not catch it. Among the curious grounds set forth to swell up the English claim against us, to make it meet, if possible, the obvious money claim we had against Great Britain, if it was seen fit to enforce it—we now put it in only as a set-off—appears in the testimony that our fishing vessels going into Newfoundland employed the men there to fish, and that it had a very deleterious moral effect upon the habits of the Newfoundland fishermen; that they had been, up to the time the Americans appeared there to buy their bait, an industrious people, in a certain sense; they had fished a certain part of the year under contracts, which it seems they could not get rid of, with a class of owners who held them in a kind of blissful bondage; but that when the Americans appeared, they led them to break these contracts, sometimes tempted them to fall off from their agreements, and put money into their pockets; they paid them for work; they gave them labor at a time when they ought to have been lying idle, when it was better for them to lie idle! O, it steadied them, improved them, raised their moral tone to be idle, and tended to preserve those desirable relations that existed between them and the merchants of St. John! A great deal was said about that; but at last there came upon the stand a witness, whose name, if I recollect, was Macdounnell (p. 313 of the British Testimony), a British witness. I did not know that he would not be fully as well filled with these feudal opinions as the others had been. He said the people at Fortune Bay were well off. I asked him:

Q. You say the people down at Fortune Bay are well off?—A. There are some poor people there, but, as a general thing, the people are all comfortable.

Q. You say they have piles of money stored in their houses?—A. Some of them have. I know men who went from LaHave down there, who were so well off they retired from the fishing business. The largest part of the money they made was in supplying bait to those French vessels which come from France to fish.

Q. Where did you find them?—A. At St. Peter's. The men of Fortune Bay seine herring, caplin, and squid, and run them across to St. Peter's and sell them to the French vessels which are lying waiting for them.

Q. That is their market?—A. Yes.

Q. They also sell to the Americans?—A. Yes, they go in and obtain a great deal of bait in Newfoundland, not so much at Fortune Bay as at St. John's.

Q. The men with piles of money, where do they live?—A. They may have plenty of money and yet live in a hovel. They are not sensible enough to enjoy the money after they have made it.

Q. We have been told, on the contrary, that they spend all their money as fast as they get it on rum and tobacco; did you find that to be true?—A. I doubt that. For the last two or three years in Newfoundland, I found very few men who drank rum, but when I first went there I found many rum-drinkers. I think they must have had a reform club there.

Q. You think they have improved?—A. Yes. They are comfortable in their homes.

Q. They are saving people?—A. Yes.

Q. I mean those people who catch bait, who are paid in cash on the spot; have they any market for that except the French and Americans?—A. I think not.

Nothing has been attempted since to contradict that statement. It is in accord with the nature of things. There is always danger in putting money in any man's hands, and there is also danger in poverty. The wise man saw that poverty had its perils as well as wealth; and nothing can be worse for a people in the long run than the condition to which the fishermen of Newfoundland had been reduced. And now, believing fully in this testimony of Mr. Macdonnell, I cannot doubt that our coming among them and buying their bait, stimulating them to work, and paying them money, has led to their hoarding money; has led to the abstinence from those habits which beset much more the half-employed and the idle man, who has a large season of the year with nothing to do, but has a reasonable expectation that, what with his labor and what with his credit, somebody or other who owns a ship will support him and his family.

I would like, also, to call your attention on this question of getting bait, which is of some importance, to the testimony of Professor Baird, which, I suppose, none of you have forgotten, which shows that we need not catch our bait for the cod in British waters. He is asked on page 457 of the American Evidence:

Q. Well, now, what are the methods of preservation of this bait? We have heard of their using salt clams, &c. Has much attention been paid to the possibility of greater preservation of the bait than we have ever yet had?—A. Yes. The science of preserving bait, as well as of the preservation of fish on shipboard, is very low, indeed, far below what can be applied, and I have no doubt will be applied, both in keeping fish for food and keeping it for bait.

Q. Now, will you state what observation you have made respecting the method of preserving fresh bait from the start all the voyage through?—A. As a general rule it is now preserved either by salting or freezing. Of course they keep it as long as it will remain without spoiling, and when you have to carry it beyond that time either ice it or salt it. Salting, of course, is a very simple process, but it alters materially the texture and taste to such a degree that fish or other bait that under certain circumstances is highly prized by the fish, is looked upon with a great deal of indifference when salted. Now, there are special methods of preserving the fish or bait by some chemical preparation, which preserves the fish *without giving the saline taste*. There are preparations by means of which oysters or clams or fish can be kept in solutions for six months without getting any appreciable taste, and without involving the slightest degree of deterioration or destruction. One process submitted to the group of judges, of whom I was chairman, was exhibited by an experimenter who placed a great jar of oysters in our room prepared in that way. I think about the 1st of August those were placed in our room, and they were kept there until the middle of September, for six weeks, during the hottest portion of the Centennial summer, and that was hot enough. At the end of that time we mustered up courage to pass judgment upon this preparation, and we tasted these oysters, and could not find them affected. We would have preferred absolutely fresh oysters, but there was nothing repugnant to the sensibilities, and I believe we consumed the entire jar. And we gave the exhibitor without any question an award for an admirable new method. That man is now using that process on a very large scale in New York for the preservation of fish of all kinds, and he claims he can keep them any length of time, and allow them to be used as fresh fish quite easily. I don't suppose any fishermen ever thought of using any preservative except salt.

Q. Well, there is a newer method of preservation, is there not?—A. There is a better method than using ice. The method described by the Noank witness, by using what is equivalent to snow, allows the water to run off or to be sucked up as by a sponge. The mass being porous prevents the fish from becoming musty. But the coming methods of preserving bait are what is called the *dry-air process* and the *hard-freezing process*. In the dry-air process you have your ice in large solid cakes in the upper part of the refrigerator and your substance to be preserved in the bottom. By a particular mode of adjusting the connection between the upper chamber and the lower, there is a constant circulation of air, by means of which all the moisture of the air is continually being condensed on the ice, leaving that which envelopes the bait or fish perfectly dry. Fish or any other animal substance will keep almost indefinitely in perfectly dry air

about 40° or 45°, which can be attained very readily by means of this dry-air apparatus. I had an instance of that in the case of a refrigerator filled with peaches, grapes, salmon, a leg of mutton, and some beefsteaks, with a great variety of other substances. At the end of four months in midsummer, in the Agricultural building, these were in a perfectly sound and prepossessing condition. No one would have hesitated one moment to eat the beefsteaks, and one might be very glad of the chance, at times, to have them cooked. This refrigerator had been used between San Francisco and New York, and between Chicago and New York, where the trip has occupied a week or ten days, and they are now used on a very large scale, tons upon tons of grapes and pears being sent from San Francisco by this means. I had a cargo of fish-eggs brought from California to Chicago in a perfect condition. Another method is the *hard-frozen* process. You use a freezing mixture of salt and ice powdered fine, this mixture producing a temperature of 20° above zero, which can be kept up just as long as the occasion requires, by keeping up the supply of ice and salt.

Q. How big is the refrigerator?—A. There is no limit to the size that may be used. They are made of enormous size for the purpose of preserving salmon, and in New York they keep all kinds of fish.

Q. Now, to come to a practical question, is this a mere matter of theory or of possible use. For instance, could this method be adapted to the preservation of bait for three or four months, if necessary?—A. The only question, of course, is as to the extent. There is no question at all that bait of any kind can be kept indefinitely by that process. I do not think there would be the slightest difficulty in building a refrigerator on any ordinary fishing-vessel, cod or halibut, or other fishing-vessel, that should keep with perfect ease all the bait necessary for a long voyage. I have made some inquiries as to the amount of ice, and I am informed by Mr. Blackford, of New York, who is one of the largest operators of this mode, that to keep a room ten feet each way, or a thousand cubic feet, at a temperature of 20° above zero, would require about two thousand pounds of ice and two bushels of salt per week. With that he thinks it could be done without any difficulty. Well, an ordinary vessel would require about seventy-five barrels of bait, an ordinary trawling-vessel. That would occupy a bulk something less than six hundred feet, so that probably four and a half tons of ice a month would keep that fish. And it must be remembered that his estimate was for keeping fish in midsummer in New York. The fishing-vessels would require a smaller expenditure of ice, as these vessels would be surrounded by a colder temperature. A stock of ten to twenty tons would, in all probability, be amply sufficient both to replace the waste by melting and to preserve the bait.

Q. Have you any doubt that some method like that will be put into immediate and successful use, if there is sufficient call for it?—A. I have no doubt the experiment will be tried within a twelvemonth. Another method of preserving is by drying. Squid, for instance, and clams, and a great many other kinds of bait can be dried without using any appreciable chemical, and can be readily softened in water. I noticed lately in a Newfoundland paper a paragraph recommending that in view of the fact that the squid are found there for a limited period of time, the people should go into the industry of drying squid for bait, so that it would always be available for the purpose of cod-fishing. I think the suggestion is an excellent one, and I have no doubt it will be carried out.

Q. Now, what is the supply of bait for codfish on the American coast?—A. Well, as the codfish eats everything, there is a pretty abundant stock to call upon. Of course, the bait-fish are abundant, the menhaden and herring. The only bait-fish that is not found is the caplin. The herring is very abundant on the American coast, and the alewives enormously abundant. Squid are very abundant of two or three species, and, of course, clams of various kinds. Then we have one shell-fish that we possess. It is never used here, although it is very abundant, but it is almost exclusively the bait for trawling on the coast of Great Britain. This shell is known as the whelp or winkle.

Q. From all you have learned, have you any doubt that, supposing the fishermen of the United States were precluded from using any bait except what could be got upon their own coast, they could obtain a sufficient supply there?—A. Well, unless the American fishery should be expanded to very enormous limits, far in excess of what it is now, I can't see that there would be any difficulty.

That is, of course, not very material, because it only goes to the point that we are not dependent upon catching bait within three miles of the British coast, anywhere. We have ways of using salt bait, and the use of all these scientific methods of preserving bait, which will, no doubt, be resorted to and experimented upon, and we may be quite certain that they will, in skillful hands, succeed. Nothing further upon that point need be considered by your honors.

I now call your attention to mackerel. It is a word that we have heard before. It is a word that we have become familiar with, and one

which I hope we shall not view with disgust or distaste for its frequency when we shall have left this hospitable coast, and scattered ourselves to our far distant homes.

The mackerel, may it please your honors, is a deep-sea fish. He does not lurk about anybody's premises. He does not live close into the shore. He is a fish to whose existence and to whose movements a mysterious importance is attached. A certain season of the year he is not to be seen, and at other times they are so thick upon the waters that, as one of the most moderate of the British witnesses said, you might walk upon them with snow-shoes, I believe it was from East Point to North Cape. I do not know that I have got the geography quite right, but it is something like that.

Mr. THOMSON. You are only sixty miles out of the way.

Mr. DANA. Well, that is not very far for such tales as these. Still, the story is as improbable with the limitation that my learned friend puts on it as it was in the way I put it. However, I do not doubt that the number is extraordinary at times, and at other times they are not to be seen. We do not know much about them. We know they disappear from the waters of our whole coast, from Labrador down to the extreme southerly coast, and then at the early opening of the spring they reappear in great numbers, armies of them. They can no more be counted than the sand of the sea, and are as little likely to be diminished in number. They come from the deep sea, or deep mud, and they reappear in these vast masses, and for a few months they spread themselves all over these seas. A few of them are caught, but very few in proportion to the whole number, and then they recede again. Their power of multiplication is very great indeed. I forget what Professor Baird told us, but it is very great indeed. Methods have been taken to preserve their spawn, that it may be secured against the peril of destruction by other fish and the perils of the sea. They are specially to be found upon the banks of the Gulf of St. Lawrence, the Bradelle or Bradley Banks, the Orphan, Miscou, Green, Fisherman's Bank, and off the coast of Prince Edward Island, and especially, more than anywhere else, about the Magdalen Islands; and in the autumn, as they are passing down to their uncertain and unknown homes, they are to be found in great numbers directly off the western coast of Cape Breton, near the highlands opposite the group of Margaree Islands, and near Port Hood; but in the main they are not to be found all over the deep sea of the Gulf of St. Lawrence. The Gulf of St. Lawrence is full of ledges, banks, and eddies formed by meeting tides, which Professor Hind described to us, and there the mackerel are especially gathered together. The map drawn on the British side, in the British interest, shows this enormous field for the mackerel fisheries, and though very few comparatively of the banks and ledges are put down, yet, in looking over this map, it seems as if it was a sort of great directory showing the abodes of the mackerel, and also the courses that the mackerel take in passing from one part of this great sea to another. There is hardly a place where mackerel-fishing grounds are not marked out here, and they are nearly all marked out at a considerable distance from the shore, all around the Magdalen Islands, for many miles, and at a distance from Prince Edward Island and on the various banks, ledges, and shoals that are to be found; and it is there, as I shall have the honor to point out to the court more particularly hereafter, that they have always been caught in the largest quantities, and the best of them, by American fishermen.

There are one or two experienced witnesses from Gloucester who have dealt with the subject carefully for their own interests, not testifying for

any particular purpose, but having kept their books and accounts and dealt with the mackerel in their own business, whose words I would like to recall to the attention of the court for a few moments.

Captain Maddocks, of Gloucester, on page 135 of the American Evidence, testifies as follows:

From my experience my judgment leads me to think that our vessels would get full as many, if not more, by staying outside of the three-mile range altogether. By going inshore *they may sometimes get a spurt of mackerel*, but they are then liable to go farther into the harbors and lose a good deal of time; whereas if they would fish farther off they would save a good deal of time. I think that for ten or twenty years back they might have caught, well, somewhere from a tenth to a fifteenth part of the mackerel within the three-mile range. I don't know but they have. I don't think anything more than a tenth part certainly.

Joseph O. Proctor, of Gloucester, on page 196, says:

From the best of my judgment, the knowledge I have where my vessels have been, and conversation with the masters of the vessels, I believe that not one-eighth of the mackerel have been caught within; I should say less, and I should not say more. It is nearer a tenth than an eighth.

Q. Do you know where the bulk is caught?—A. At the Magdalenes, or between the Magdalenes and Cheticamp.

Capt. Ezra Turner, of Gloucester, page 226, testifies:

Q. Have you ever fished off Prince Edward Island?—A. Yes; I have fished all round the east side, wherever anybody fished.

Q. Did you fish within three miles of the shore there?—A. No; it is a rare thing that ever you get mackerel within the three miles. When they come within three miles they rise in schools, and we never calculate to do much out of them; but from four to six and seven miles off is the common fishing-ground there.

The Commissioners will recollect the testimony of Mr. Myrick, an American merchant, who had established himself on Prince Edward Island. The inshore fishery, he said, is not suited to American vessels. Our vessels are large; they are built at a distance; they are manned by sixteen or seventeen men; they cost a great deal; they require large catches, and dealing with fish in large quantities; they deal at wholesale altogether, and not at retail. Retailing would ruin them. Anything short of large catches, large amounts, would be their end, and compel all the merchants to give up the business, or to take to boat-fishing, which, of course, Gloucester, or Massachusetts, or New England, or any part of the United States could not undertake to carry on here. It has been stated to the tribunal, by experienced men, as you cannot but remember, that our fishermen object to going very near shore in the Gulf of St. Lawrence. There are perils of weather connected with the coast which cannot be set aside by ridicule. Gloucester is a town full of widows and orphans, whose husbands and parents have laid their bones upon this coast, and upon its rocks and reefs, trusting too much to the appearance of fine weather, as we all did last night, waking up this morning in a tempest. Gloucester has tried to provide for these bereft people, by every fisherman voluntarily paying a small percentage of his earnings to constitute a widows' and orphans' fund. Even the tempestuous Magdalen Islands are safer for vessels than are the inshore coasts of those islands, where we are now permitted to fish; their harbors are poor, their entrances are shallowed by sand-bars, which are shifting, which shift with every very high wind, and sometimes with the season. They are well enough after you get inside of them, but they are dangerous to enter to persons inexperienced, dangerous to any by night; and if a vessel is caught near the shore by a wind blowing inshore, against which she cannot beat with sails, for none of them carry steam, then she is in immediate peril. They therefore give a wide berth to the inshore fisheries in the main. They resort to them only occasionally. They are not useful for fishing with our seines. We find that the

purse-seines are too deep; that they are cut by the ground, which is rocky; that it is impossible to shorten them without scaring the mackerel, which must be taken by seines run out a great distance, for they are very quick of sight, and very suspicious of man; and they soon find their way out of the seines, unless they are laid a considerable distance off.

We need not catch our mackerel bait, any more than our cod bait, within the three-mile limit. On the contrary, the best mackerel bait in the world is the menhaden, which we bring from New England. All admit that. The British witnesses say they would use it were it not that it is too costly. They have to buy it from American vessels; and they betake themselves to an inferior kind of bait when they cannot afford to buy the best bait from us. And another result is that the Americans have shown for many years that what are called the shore mackerel, that is, those that are caught off the coast of Massachusetts and several other of the New England States, are really better than the bay mackerel. The evidence of that is the market prices they bring. It is not a matter of opinion. We have not called as witnesses persons who have only tasted them, and might have prejudices or peculiar tastes, but we have shown the market value.

James H. Myrick, page 433 American Evidence, in answer to the question, "For a few years past, which have sold for the highest price, number ones from the bay or number ones from the American shore?" says, "O, their shore mackerel have been the best quality of fish."

Benjamin Maddocks, of Gloucester, page 134, says:

Q. Well, I take No. 1 then. How do those marked as No. 1 shore mackerel compare with those marked as No. 1 bay mackerel?—A. Well, the bay mackerel, at least I should say the shore mackerel, has been a great deal better than the bay mackerel the last seven or eight years.

Q. That is not simply an opinion, but the market prices are better? How much more do the No. 1 shore mackerel bring than the No. 1 bay mackerel?—A. Well, there has been \$7 or \$8 difference between them. I have seen the time when the bay mackerel was equal to our shore mackerel. It has not been for the last seven years.

It is also true, a matter of testimony and figures, that the American catch, the catch upon the American shore, is very large, and has increased, and is attracting more and more the attention of our people engaged in fishing, and it is only this year that the shore fishing proved to be unprofitable, and the confiding men who were led to send their vessels to a considerable extent, though not very great, into the gulf, by reason of the British advertisements scattered about Gloucester, have come away still more disappointed than they had been by the shore fishing, because they had employed more time and more capital than their catch compensated them for. There are some statistics which I will read, taken from a prominent and trustworthy man, as to the American catch. David W. Low, on page 358 of the American Evidence, states the figures as follows:

	Barrels.
1869.—194 vessels in gulf, average catch 109 barrels.....	40,546
151 vessels off shore, average catch 222 barrels.....	33,552
Mackerel caught by boats and some eastern vessels packed in Gloucester.....	19,028
Mackerel inspected in Gloucester.....	93,126
1875.—58 vessels in gulf, average catch 191 barrels.....	11,078
117 vessels American shore, average catch 409 barrels.....	47,853
	58,921

The average catch is based on the average catch of 84 vessels from 17 firms in 1869; and 28 vessels in bay and 62 vessels off American shore from 20 firms in 1875. These firms have done better than the rest.

The statistics of John H. Pew & Sons, put in by Charles H. Pew, p. 496, for the last seven years, from 1870 to 1876, inclusive, show that the total, for that time, of bay mackerel that their own vessels caught, amounted to \$77,995.22, and the shore mackerel for the same period was \$271,333.54. Your honors will recollect the statistics put in, which it is not necessary for us to transfer to our briefs, showing the exact state of the market on the subject of the proportion of American fish caught on the shores and the proportion caught in the bay.

We have introduced a large number of witnesses from Gloucester, and I think I take nothing to myself in saying that the greater part of them, those who profess to be engaged in the trade or business at all, were men of eminent respectability, and commended themselves to the respect of the tribunal before which they testified. You were struck, no doubt, with the carefulness of their book-keeping, and the philosophical system which they devised, by means of which each man could ascertain whether he was making or losing in different branches of his business; and as the skipper was often part owner, and usually many dealers managed for other persons, it became their duty to ascertain what was the gain or loss of each branch of their business. They brought forward and laid before you their statistics. They surprised a good many, and I know that the counsel on the other side manifested their surprise with some directness; but, may it please the court, when the matter came to be examined into, it assumed a different aspect. We made the counsel on the other side this offer. We said to them, "There is time enough, there are weeks, if you wish it, before you are obliged to put in your rebuttal; we will give you all the time you wish; send anybody to Gloucester you please, to examine the books of any merchants in Gloucester engaged in the fishing business, and ascertain for yourselves the state of the bay and shore fishing as it appears there." You say that bay fishing is as profitable as the shore fishing; that it has made a great and wealthy city of Gloucester, and you assume that it is owing to their having had, for the greater part of the time, a right to fish inshore. It would seem to follow from this reasoning that, whenever we lost the right to fish inshore, Gloucester must have receded in its importance, and come up again with the renewal of the privilege of inshore fishing. Nothing of that sort appears in the slightest degree. But they say "The bay fishing must be of great importance, because of the prosperity of Gloucester." Now, the people of Gloucester have no disposition to deny their prosperity, but it is of a different kind from what has been represented. Gloucester is a place altogether *sui generis*. I never saw a place like it. I think very few of your honors failed to form an opinion that it was a place well deserving of study and consideration. There is not a rich man idle, apparently, in the town of Gloucester.

The business of Gloucester cannot be carried on as mercantile business often is, by men who invest their capital in the business and leave it in the hands of other people to manage. It cannot be carried on as much of the mercantile business of the world is carried on, in a leisurely way, by those who have arrived at something like wealth who visit their counting-rooms at 10 o'clock in the morning and stay a few hours, and then go away to the club, return to their counting-rooms for a short time and then drive out in the enticing drives in the vicinity, and their day's work is over. It cannot be carried on as my friends in New Bedford used to carry on the whale fishery, where the gentlemen were at their counting-rooms a few months in the year, and when the off-season came they were at Washington, Saratoga, or wherever else they saw fit to go, and yet they were prosperous. No; the Gloucester

tradesmen are hard-working men, and they gain their wealth and prosperity on the terms of being hard-working men. The Gloucester merchants, if you see fit to call them so (they do not call themselves "merchants," but "fish-dealers"), are men who go to their counting-rooms early and stay late. If they go up to Boston on business, they take a very early train, breakfast before daylight, and return in season to do a day's work, though Boston is twenty-five or thirty miles distant. And when their vessels come in they are down upon the wharves, they stand by the large barges and they cull the mackerel with their own hands; they count them with their own hands; they turn them with their own hands into the barrels and cooper them, and scuttle the barrels, and put in the brine and pickle the fish and roll them into the proper places; and when they have a moment's leisure they will go to their counting-rooms and carry on their correspondence by telegraph and otherwise with all parts of the United States, and learn the value of these mackerel. They are ready to sell them to the buyers, who are another class of persons, or they are ready to keep and sell them in the larger market of Boston. By their patient industry, by their simple hard days' works, they have made Gloucester an important place; but they have not added much to the mackerel fishery of the United States. Gloucester has grown at the expense of every other fishing town in New England. We have laid before your honors, through Mr. Low, I think it was, or Mr. Babson, the statistics of the entire falling off of all the fishing towns of New England; those that had dealt in mackerel fishing.

Where are Plymouth, Barnstable, where Marblehead, which was known the world over as a fishing-town? There are no more fishing-vessels there. The people have all gone into the business of making shoes and other domestic manufactures. So with Beverly, so with Manchester, so with Newburyport, and so with the entire State of Maine, with the exception of a very few vessels on the coast. Two or three of the last witnesses gave us a most melancholy account of the entire falling off of fishing in Castine, Bucksport, and all up and down that bay and river, so that there is hardly any fishing left. When they were fishing-towns people employed their industry in it; their harbors were enlivened by the coming and going of fishing-schooners; and now there is an occasional weekly steamer or an occasional vessel there owned, but doing all its business in Boston or New York. But the fishing business of all the towns of New England, except the cod fishery of Provincetown and of the towns near, has concentrated in Gloucester. It seems to be a law that certain kinds of business, though carried on sparsely at periods, must be eventually concentrated. When they are concentrated they cannot be profitably carried on anywhere else. The result is, that the mackerel fishery and cod fishery, with the exception of the remote points of Cape Cod, have concentrated in Gloucester. There is the capital; there is the skill; there are the marine railways; there is that fishing insurance company, which they have devised from their own skill and experience, by which they insure themselves cheaper than any people in the world ever did insure themselves against marine risks; so much so, that merchants of Gloucester have told us that if they had to pay the rates that are paid in stock companies the fishing business could not be carried on by merchants who own their ships; the difference would be enough to turn the scale. Now, it appears to be the fact—I will not trouble your honors by going over the testimony to which every Gloucester man swore; it turns out to be the fact that the prosperity of Gloucester, while it has additional resources in its

granite, and as a sea-bathing place, has been owing mostly to the prudence and sagacity, the frugality and laboriousness of the men brought up as fishermen, who turn themselves into fish-dealers in middle life, and carry their experience into it; and it is only on those terms that Gloucester has become what it is. An attempt was made at Salem, under the best auspices, to carry on this business, with the best Gloucester fishermen, and most experienced men concerned in it, by a joint-stock company; but in the matter of deep-sea fishing, "the Everlasting" seems to have "fixed his canon" against its prosperity, except upon the terms of frugality and laboriousness. It never has succeeded otherwise, and scarce on those terms, except it be with the aid of a bounty from the government.

Now, we say that the whole bay-fishing for mackerel is made prosperous simply on those terms; that it is no treaty-gift that has created it, but it is the skill and industry of the fishermen, the capital invested by the owners, and the patient, constant labor and skill of the owners in dealing with their fish, after they are thrown upon their hands on the wharf, and they have paid their fishermen, that has given it any value in the market. I do not think it is worth while to speculate upon the question whether fish in the water have any money value. I can conceive that fish in a pond and that fish that cling to the shore, that have a habitat, a domicile, like shell-fish, have an actual value. They are sure to be found. It is nothing more than the application of mechanical means that brings them into your hands. But certainly it is true that the value of the free-swimming fish of the ocean, pursued by the deep-sea fishermen, with line or with net, must be rather metaphysical than actual. To pursue them requires an investment of capital; it requires risk and large insurance; it requires skill, and it requires patient labor; and when the fish is landed upon the deck, his value there, which is to be counted in cents rather than in dollars, is the result of all these things combined; and if any man can tell me what proportion of those cents or dollars which that fish is worth on the deck of the ship is owing to the fact that the fishermen had a right to try for him, I think he will have solved a problem little short of squaring the circle, and his name ought to go down to posterity. No political economist can do it. I will not say that the fish in the deep sea is worth *nothing*; but, at all events, the right to attempt to catch it is but a liberty, and the result depends upon the man.

If there can be no other fishery than the one which you have the privilege of resorting to, then it may be of great value to you to have that privilege. If there be but one moor where he can shoot, the person who is shooting for money, to sell the game that he takes, may be willing to pay a high price for the privilege. But recollect that the fishing for the free-swimming fish is over the whole ocean. The power of extending it a little nearer shore may be of some value, I do not say that it is not, but it strikes my mind as an absurd exaggeration, and as an utter fallacy, to attempt to reason from the market-value of the fish there caught, to the money-value of the privilege so extended. The fish are worth, I will say, \$12 a barrel; but what does that represent, when the American merchants, Hall and Myrick, both tell us that the value on the wharf at Prince Edward Island is about \$3.75 a barrel? Well, suppose the mackerel to be worth \$3.75 a barrel on the wharf at Prince Edward Island, what does that represent? Is that a thing which the United States is to pay Great Britain for? Has Great Britain sold us a barrel of pickled mackerel on the wharf? Has anybody done it? I think not. That represents the result of capital and of many branches

of labor. Then, if you ask, "What is the worth to Mr. Hall or Mr. Myrick of the mackerel on the deck of the vessel?" I say it is next to nothing. The fish will perish if he is not taken care of. Skill is to be used upon him, then; what costs money is to be used upon him, ice and pickle, and he is to be preserved. All this to the end that he may eventually, after a great deal of labor, skill, and capital, be sent to the market. But recollect that the vessel from whose deck he was caught cost \$8,000. Recollect that the men who maintain that crew and feed them, and enable them to clothe themselves and follow that pursuit, are paying out large sums of money. Recollect that the fisherman who catches the fish has, as the result of many years' labor, which may be called an investment, learned how to catch him; and it is by the combination of all these causes that at last the fish is landed. Now, in my judgment, it is purely fallacious to attempt to draw any inference from the market-value of the fish to the right to extend your pursuit of those animals nearer the coast than before, or to the market-value of any right to fish over a certain portion of the ocean, when all other oceans are open to you, and all other fisheries.

Your honors, of course, recollect that the mackerel fishery, taken at its best—I don't confine myself to the inshore fishery, I mean the mackerel fishery of the bay and gulf, at its best, the whole of it—is of a greatly decreasing and precarious value. I speak only of the salted mackerel that is sent into the United States. The lake fish are fast becoming a substitute for salt mackerel. I will call your honors' attention to two or three rather striking proofs which were not read previously by Judge Foster. Sylvanus Smith, of Gloucester, on page 336 of the American evidence, is asked:

Q. What causes have been in existence interfering with the sale of salt mackerel during the past few years?—A. I think there have been several causes. One is the facility of carrying our fresh fish into distant parts of the country. That has materially interfered with it. Then there is the lake herring; during the months of November and December until May they are very plenty. They are now used in very large quantities all throughout the West.

Q. What are lake herring?—A. A species of white fish, only smaller.

Q. What do they sell for per barrel?—A. This party I referred to, speaking of his trade, said that last year he used 30,000 packages. A package is a half barrel.

Q. How are these put up?—A. Pickled. And he told me they sold at \$2 a package. Q. You say they have interfered with the constancy of the demand?—A. I think during the months we used to depend very largely on the consumption of our mackerel, the lake herring has been one great cause for the decline during these months in the value of mackerel.

On page 468 Professor Baird testifies as follows:

Q. Have you any statistics respecting the lake fishery for the years 1876 and 1877?—A. I have only partial statistics for 1877. I published the statistics in detail in my report for 1872, and I am now having statistics for 1877 collected, and will have them, I suppose, by the end of the season.

Q. Eighteen hundred and seventy-two represents but faintly the present state of things. Can you tell us how it was in 1872?—A. In 1872 the American production of fish in the great lakes was 32,250,000 pounds. That quantity of fish was taken, but how much more I cannot say. Those were marketed in Buffalo, Cleveland, Chicago, and many other stations.

Q. Does that include the Canadian catch?—A. I presume there is no Canadian catch in that amount. Those are the figures as they were obtained by my agents from the fishermen and dealers.

Q. You obtained them from the dealers in the large cities?—A. Yes; and the fishermen at the grounds. This year I have had every station on the American side of the lakes visited and canvassed.

Q. You have steady communication with and reports from the dealers?—A. I have reports only when I send specially after them, as I did in 1872 and am doing this year.

Q. How far have you got in your inquiry for this year?—A. I have only a partial return for Chicago.

Q. What does that show?—A. The total marketing of salted fish in Chicago up to the middle of October amounted to 100,000 half-barrels, with about 20,000 half-barrels expected for the rest of the season, or equal to 60,000 barrels of those fish for Chicago alone for the present year. The corresponding supply of barrels of fish in 1872 were 12,000 in Chicago, so that the Chicago trade has increased from 12,600 in 1872 to 60,000 in 1877, or almost five fold—4%. The total catch of fish in the lakes in 1872 was 32,250,000 pounds. If the total catch has increased in the same ratio as that market has done at Chicago, it will give 156,000,000 pounds of fish taken on the American side of the lakes for the present year.

Then there are other fresh fish that are taking the place of the salt mackerel. The question is not between British mackerel and American mackerel, but it is between mackerel and everything else that can be eaten; because, if mackerel rise in market price, and in the cost of catching, people will betake themselves to other articles of food. There is no necessity for their eating mackerel. The mackerel lives in the market only upon the terms that it can be cheaply furnished. This tribunal will recollect that interesting witness, Mr. Ashby, from Noank, Conn.; how enthusiastic he was over the large halibut that he caught; how his eyes gleamed, and his countenance lightened, when he told your honors the weight of that halibut, the sensation produced in Fulton market when he brought him there, and the very homely, but really lucid way in which he described the superior manner by which they were able to preserve those fish in ice, and the way they were brought into market; and how the whole horizon was dotted with vessels fishing for halibut, and other fish there, with which to supply the great and increasing demand in the New York market. There is also the testimony of Professor Baird, who speaks of various kinds of fish. It is not worth while to enumerate them all, but he speaks especially of a fish known as "mullet," on the Southern coast. So long as slavery existed, it is undoubtedly true that there was very little enterprise in this direction. It suffered like every thing else, but cotton, rice and sugar, staples which could be cultivated easily by slave labor. Almost every other form of agriculture, almost all kinds of maritime labor, ceased. The truth was, the slaves could not be trusted in boats. The boats would be likely to head off from South Carolina or Virginia, and not be seen again. The vessels that went to the ports of the slave States were Northern vessels, owned and manned by Northern people. Southern people could not carry on commerce with their slaves, nor fishing with their slaves. That system being now abolished, the fisheries of the Southern States are to be developed. The negro will fish for himself. He will have no motive for running away from his own profits. The result has been that this mullet has come into very considerable importance. Professor Baird has his statistics concerning it, and he has certainly a very strong opinion that that fish is in danger of excluding salted mackerel from the Southern markets (indeed it is almost excluded now), and that it will work its way up to the Northern markets. Some of the Southern people think very highly of it, as the best kind of fish, think it has not its superior in the ocean; but, supposing that to be local exaggeration and patriotic enthusiasm, yet certainly it is a useful and valuable fish, and the demand for it is rapidly increasing. Professor Baird says, on page 460, that one million barrels of mullet could be furnished annually from the south shore off Chesapeake Bay to the south-end of Florida, if they were called for.

Q. How far has the mullet come into the market now?—A. The mullet does not come into the Northern market at all, but in the North Carolina, South Carolina, and Georgia, it fills the markets at the present time, excluding other kinds of imported fish. In former years there was a great demand for herring and mackerel, but the mullet is supplying the markets, because they are sold fresher and supplied at a much lower

price, and they are considered by the Southern people a much superior article of food.

Q. Is it preferred to mackerel as a salted fish?—A. The persons familiar with mackerel and with mullet from whom I have made inquiries (I have never tasted salt mullet) give the preference to mullet. It is a fatter, sweeter, and better fish, and of rather larger size. They grade up to 90 to a barrel of 200 pounds, and go down to three-quarters of a pound, and as a salt fish the preference is given by all from whom I have inquired, to the mullet.

Q. Do you think the failure of the mackerel market in the Southern and Southwestern States is largely attributable to the introduction of mullet?—A. I cannot say that, but I imagine it must have a very decided influence.

Q. Can the mullet be caught as easy as mackerel?—A. More easily. It is entirely a shore fish, and is taken with seines hauled up on the banks by men who have no capital, but who are able to command a row boat with which to lay out their seines, and they sometimes catch 100 barrels a day per man, and sometimes as many as 500 barrels have been taken at a single haul. The capital is only the boat, the seine 100 or 200 yards long, the salt necessary for preserving the fish, and splitting boards and barrels.

Q. Can pounds be used?—A. They have not been used, and I doubt whether they could be used; pounds are not available in the sandy regions of the South.

Q. They are taken by seining?—A. Yes, seines can be used. This work is entirely prosecuted by natives of the coast, and about two-thirds of the coast population are employed in the capture of those fish.

Q. Then the business has grown very much?—A. It has grown very rapidly.

Q. When was it first known to you as a fish for the market?—A. I never knew anything about it until 1872.

Q. Then it has been known during only five years?—A. I cannot say; it has been known to me that length of time.

Q. During that time the business has very much increased?—A. I am so informed; I cannot speak personally. All my information of it is from reports made to me in replies to circulars issued in 1872 and 1873. I have not issued a mullet circular since that time, when I issued a special circular asking information regarding the mullet.

Q. Then it is your opinion that the mullet has become, to some extent, and will become an important source of food-supply?—A. It is destined, I suppose, to be a very formidable rival and competitor of the mackerel. I know, in 1872, a single county in North Carolina put up 70,000 barrels of mullet, a single county out of five States covering the mullet region.

Your honors will recollect, as a striking illustration of the truth or the power of propagation, the statement of Professor Baird in regard to the River Potomac, where a few black bass, some half dozen, were put into the river, and in the course of a few years they were abundant enough to supply the market. Fish culture has become a very important matter, and what we call in New England our "ponds," small lakes, and rivers, are guarded and protected, and every dam built across any river where anadromous, or upward-going fish, are to be found, has always a way for their ascent and descent; so that everything is done to increase the quantity, kind, and value of all that sort of fish, making the salted mackerel less important to the people and in the market.

Then the improved methods of preserving fish are astonishing. I think the evidence on that point was principally from Professor Baird, who has described to us the various methods by which fish, as well as bait, may be preserved. He told us that for months, during the hottest part of the exhibition season at Philadelphia, during our Centennial year, fish were kept by these improved chemical methods of drying, and methods of freezing, so that after months the Commissioners ate the fish and found them very good eating. There was no objection whatever to them, although, of course, they were not quite as good as when they were entirely fresh. So that all science seems to be working in favor of distribution, instead of concentration, of what is valuable for human consumption; and the longer we live and the more science advances the less can any one nation say to the fishermen of another, Thus far and no farther. We turn upon such an attempt at once and say, "Very well; if you choose to establish your line of exclusion, do it. If you

choose to throw all open, do so. We prefer the latter as the generous, the more peaceful, and safe method for both parties. If you prefer the former, take the expense of it, take the risk of it, take the ignominy of it. If you give it up, and it costs you anything to do so, we will pay you what it is worth to us."

I certainly hope that after our offer to open the books of any merchant in Gloucester, or any number of merchants, to the other side, it will not be said that we have selected our witnesses. The witnesses that we brought here, both fishermen and owners, said that the bay fishery was dying out. They show it by their own statistics, and the statistics of the town of Gloucester show how few vessels are now engaged in the bay fishery; that they are confining their attention to cod-fishing and shore fishing, and fishing with nets and seines.

We did not bring the bankrupt fish-dealers from Gloucester, the men who have lost by attempting to carry on these bay fisheries, as we might have done. We did not bring those who had found all fishing unprofitable, and had moved away from Gloucester, and tried their hand upon other kinds of business. We brought, on the other hand, the most prosperous men in Gloucester. We brought those men who had made the most out of the fisheries, the men who had grown richest upon them, and we exhibited their books; and as we could not bring up all the account-books of Gloucester to this tribunal, we besought the other side to go down, or send down a commission, and examine them for themselves. We did not ask them to examine the books of the men who had become bankrupt in the business, but the books of those who had been prosperous in the business; and after that, I certainly think we have a right to say that we have turned Gloucester inside out before this tribunal, with the result of showing that the bay fishing has gradually and steadily diminished, that the inshore fishery is unprofitable, that the bay fishery has been made a means of support only to the most skillful, and by those laborious and frugal methods which I have before described to this tribunal.

At this point Mr. Dana suspended his argument, and the Commission adjourned until Saturday at noon.

SATURDAY, November 10, 1877.

The Commission met at 12 o'clock, and Mr. Dana continued his argument.

May it please your Excellency and your Honors :

We are met to-day, the seventieth of our session, to hear what may be said by me in behalf of the United States, closing the argument in our favor, a post which, by the kindness and partiality of my associates, has been assigned to me. While without, all is cheerless and wintry, we have within the bright beams of friendly, and, if not sympathizing, at least, interested countenances. I feel most painfully that, having the last word to say for my country, I may omit something that I ought to have said; or, perhaps, which is quite as bad, that I may say more or other than I might well have said. Yet the duty is to be performed.

I have no instructions from my country, gentlemen of the Commission, and no expectation from its government, that I will attempt to depreciate the value of anything that we receive. We are not to go away like the buyer in the Scriptures, saying, "It is nought; it is nought"; but we have referred to a Commission, which will stand neutral and impartial, to determine for us; and no proclamations of opinion, however loud, will have any effect upon that Commission. My country stands

ready to pay anything that this Commission may say it ought to pay, as I have no doubt Great Britain stands content, if you shall be obliged to say what we think, in our own judgment, you should say, that you cannot see in this extension, along the fringes of a great garment, of our right to fish over portions of this region, anything which equals the money value that the British Dominion and Provinces certainly receive from an obligation on our part to lay no duties whatever upon their importations of fish and fish-oil. But while we are not here to depreciate anything, it is our duty to see to it that no extravagant demands shall pass unchallenged, to meet evidence with evidence, and argument with argument, fairly before a tribunal competent and able. We do not mean that our side shall suffer at all from too great depreciation of the evidence and arguments of the counsel for the Crown, as we feel quite sure that the cause of the Crown has suffered from the extravagant demands with which its case has been opened, and the extravagant and promiscuous kind of evidence, of all sorts of damages, losses, and injuries which it saw fit to gather and bring before this tribunal, from the fisherman who thought that his wife had been frightened and his poultry-yard robbed by a few American fishermen out upon a lark, to the minister of marine and fisheries of the Dominion, with his innumerable light-houses and buoys and improved harbors. We are to meet argument with argument, evidence with evidence, upon the single question submitted, and that is, as I have had the honor to state before, "Is there a money value in this extension of our right, or rather this withdrawal of the claim of exclusion on the part of Great Britain, greater than the value which Great Britain certainly receives from our guarantee that we will lay no duties whatever upon her fish and fish-oil?"

Now, may it please your excellency, the question is not whether two dollars a barrel on mackerel and one dollar a barrel on herring is prohibitory, because we had a right, before making this treaty, to lay duties that should be prohibitory, if those were not. If two dollars were not, we could lay as much as we pleased, so that it would be an imperfect consideration of this case, it has been all along an imperfect consideration of this case, to ask the question whether two dollars a barrel is prohibitory, whether two dollars a barrel on mackerel or one dollar a barrel on herring can be overcome by any commercial method or enterprise of the Dominion and the provinces. The question has been between the right to be secured against laying duties indefinitely, on the part of the United States, on the one hand, and this extension of the right of fishing a little nearer to the shores, on the other. We could, if we saw fit, make a kind of self adjusting tariff, that whenever fish rose above a certain price, then the Dominion and Canadian fish might be admitted, and otherwise not; or we could hold it in our hands, and legislate from day to day as we saw fit. Before leaving this question of the money value of the withdrawal of the claim, of exclusion from a portion of this coast by Great Britain, I must take the liberty to repeat to this court, that I may be sure that it does not escape their fullest attention, that the right to exclude us, independent of the Treaty of 1818, we do not and never have acknowledged; and by the Treaty of 1818 we arranged it as a compromise on a disputed question. That claim to exclude is contested, difficult of interpretation, expensive, and dangerous. The geographical limit is not easily determined; in respect to bays and harbors, it is entirely undetermined, and apparently must remain so, each case being a case a good deal *sui generis*, and the meaning and extent of the power and authority which goes with that geographical extension beyond the shore, whatever it may be, is all the

more uncertain und undetermined. Under the Treaty of 1818, my country certainly did agree that she would not fish nor assert the claim to the right of fishing within three miles of a certain portion of this great bay. Great Britain, by the Treaty of 1871, has withdrawn all claims to exclude us from that portion, and we agreed that if there is any pecuniary value in that beyond the pecuniary value of what we yield, we stand ready to make the requisite compensation. It is extremely difficult, certainly to my mind, and I cannot but think, from conversation and reading, that it must be to others, to determine the pecuniary value of a mere faculty, as we may call it, a faculty according to the Roman law, a liberty, perhaps, of endeavoring to catch the free swimming fish of the ocean. What is its pecuniary value? How is it to be assessed and determined? Why, it is not to be assessed or determined by the amount of fish actually caught. That may be very small, or may be very large. The market value may be raised or decreased by accident; a war may so cut us off from making use of the privilege, that we should take nothing. It does not follow, therefore, that we are to pay nothing. Some cause, some accident, some mistake of judgment may send a very large fleet here, at a very great expense of men and money; we may make a very large catch, more than we can dispose of, but the pecuniary value of that catch is no test of the value of the liberty of trying to catch the fish. Then, what is the test? Is the use made, a test? Although, at first glance, it might seem that that was scarcely a test; yet I think that, on the whole, in the long run, if you have a sufficient period of time to form a fair judgment, if your judgment is based upon the use made by persons who are acting for their own interest in a large market, then you may form some judgment from the use actually made. This case has been likened by the counsel for the Crown to one where an individual has hired a farm, and on the farm there is a house or dwelling, and he has not used it. Of course he has to pay for it, whether he uses it or not. It is at his disposal; it belongs there; it is fixed there, and he may enter it when he pleases, and it is of no account whether he does use it or does not. But if the question was, whether a certain region of a city and the buildings thereon were of real value or not, and it was brought up as an argument against them, that they were not wholesome and not habitable, certainly the fact that in the market for a long period of years, purchasers or tenants could not be found, would be a very strong argument against their value.

Now, with reference to these fisheries, what is the value of the mere faculty or liberty of going over these fishing-grounds, and throwing overboard your costly bait, and embarking your industry, capital, and skill in the attempt to catch the fish? We venture to say that we have had many years of experience, and that there have been long periods of time when those fisheries have been opened to us, and they have been closed for short periods of time; that from 1871 down to the present time we have had a fair test; and when we show, by undisputed testimony, that the citizens of the United States, during long periods of time, and as a result of long experience, have come to the conclusion that they are not of sufficient value to warrant them, as merchants and as men acting for their own interests, to make much use of them, I submit that we have brought before the tribunal a perfectly fair argument and a very valuable test, because it is not what one man will do with one house; it is not what one ship-master or one ship-owner may fancy about the inshore or the offshore fisheries; but it is a question of what a large number of men, acting for their own interests, in a very large market, full of competition, will do. If, on inquiring into the state of

that market, and the conduct of such men, who cannot be governed by any peculiar and special motive bearing upon the case, we have produced a fair and influential consideration, we claim that that is entitled to its fair weight. You might well say, perhaps, of one fisherman of Gloucester, or of two, that so deep was their hostility to the British provinces that they would be willing to abstain from using these fisheries, just for the purpose of reducing the amount that this tribunal might find itself called upon to adjudge. But if there should be one such man so endowed with disinterested malice, I am quite certain that this tribunal will not believe so of the entire fishing community of buyers and sellers, fishermen and merchants, acting for a series of years, in view of their own interests. If, therefore, we have shown, as we certainly have, that the use of this bay fishery, as an entirety, the whole of it, deep-sea and inshore alike, has steadily diminished in market value, that our ship-owners are withdrawing their vessels from it, that fewer and fewer are sent here every year, and that they have said, man after man, that they do not value the extension of the territorial privilege, where that extension is always inshore, bringing them into more dangerous and less profitable regions; that being the case, we ask your honors to consider all this as fair proof of the slight value which is actually put, by business men, acting in their own interests, upon what has been conceded to us.

Now, what is this that has been conceded to us, or, rather, what is this claim of exclusion from which Great Britain has agreed to withdraw herself during the period of this treaty? What is the privilege? It is the privilege of trying to catch fish within that limit. That is all it is. All attempt to measure it by the value of the fish in barrels brought into the United States is perfectly futile and fallacious. A barrel of fish salted and coopered and standing on the wharf in Gloucester represents something very different from the value of a right to cross over a portion of the seas and attempt to catch the fish. It represents capital; it represents the interest on a vessel costing \$8,000; it represents the interest upon the whole outlay of a permanent character, and it represents the absolute cost of all the outlay which is of a perishable character; it represents the wages of skilled labor; it represents mercantile capacity; and if you eliminate from the value of the mackerel standing upon the wharf at Gloucester all these elements, and turn me back to the mere fact that there was some mackerel, more or less, thin, meager, fat, or heavy, as we please, to be found by the diligent and skillful mariner within that little fringe of this great garment, what do you show me at all by which I can estimate its value? And that is the whole of it. Furthermore, if you take, instead of that, the value of the mackerel as it stands upon the wharf at Prince Edward Island, soon after it is caught, \$3.75, that represents, again, the interest on the cost of the ship, and all the outfit and all the labor, and all the skill, and all the risk. Eliminate them, and what have you left? You have nothing left but the right or liberty to do something within certain limits; and that right is one, any attempt to exclude us from which is very dangerous, uncertain, and precarious. I do not know what to liken it to. It certainly is not to be compared at all to a lease, because the lessor furnishes everything that the lease requires. Now, if, in company with this privilege, Great Britain had furnished the fish, so that we should not have to employ vessels, or men, or skill, or labor, or industry, furnished them to us on the wharf at Prince Edward Island, then there might be some analogy between that and a lease. What is it like? Is it like the value of a privilege to practice law? Not quite, because there always will be lawsuits, but it is not sure that

there always will be mackerel. Suitors, irritated men, may be meshed within the seine which the privileged lawyer may cast out; but it does not follow that the mackerel can be. On the contrary, they are so shrewd and so sharp that our fishermen tell us that they cannot use a seine within their sight; that they will escape from it. But the lawyer is so confident in the eagerness of the client for a lawsuit, that, instead of concealing himself, and taking him unawares, he advertises himself and has a sign of his place of business. Suppose we were to compare it to the case of a lawyer who had a general license to practice law in all parts of a great city, but not a monopoly. Everybody else had the same right; but he was excluded from taking part in cases which should arise in a certain suburb of that city, not the best, not the richest, not the most business-like, and which had alwyers of its own living there, accustomed to the people, who maintained the right to conduct all the lawsuits that might arise in that district. What would it be worth to a lawyer who had the whole city for the field of labor, plenty to do, to have his right extended into that suburb? What would it be worth if that suburb was an indefinable one, not bounded by streets, but by some moral description, about which there would be an eternal dispute, and about which the lawyer might be in constant trouble with the policeman? What would be its value? Who can tell? Or a physician or merchant? Suppose a merchant is asked to pay for a license to buy and sell, to keep a retailer's shop; everybody else has the same right that he has, and half the people are doing it without any license; but he is asked to pay for a license. What is it worth to him? Why, not much, at best. But suppose that the license was confined to the right to deal in Newfoundland herring. While everybody else could deal with other fish, his license extended his trade to Newfoundland herring alone. Why, his answer would be, "There are plenty of herring from other places that I can deal with. There is a large catch in the gulf; there is a large catch on the Labrador shore; and what is it worth to me, with my hands full of business, to be able to extend it a little farther, and include the dealing with this particular kind of fish?"

None of the analogies seem to me to hold. Your honors can do nothing else than first to look at the practical result in the hands of business men; and the result is this: To those who live upon the shore and can go out day after day, and return at night, in small boats, investing but little capital, going out whenever they see the mackerel, and not otherwise, and coming back to finish a day's work upon their farms—to them it is profitable, for almost all they do is profit; but to those who come from a distance, requiring a week or a fortnight to make the passage, in large vessels, which the nature of the climate and of the seas requires should be large and strong, and well manned, who have the deep sea before them, and innumerable banks and shoals, where they can fish—to them the right to fish a little nearer inshore is of very much less value. That is the position of the American; the other is the position of the Englishman. And the fact that we have steadily withdrawn more and more from that branch of the business is a proof that it is of little value.

Then, beyond that, I suppose, you must make some kind of estimate, for I am not going to argue that the faculty is of no value. I suppose the right to extend our fisheries so far is of some value. I can find no fair test of it. But recollect, Mr. President and gentlemen, as I say again, that it is but a faculty, which would be utterly useless in the hands of some people. Why, it has been found utterly useless in the hands of the inhabitants of this Dominion. What did they do with it until they took to their day and night boat fishing? What has become

of their fishing-vessels? Gone! The whole inshore and outshore fishery became of no value to them, until they substituted this boat-fishing, which we cannot enter into. Then, having before you this very abstract right or faculty, obliged to disconnect from it everything except this—that it is an extension of the field over which we had a right to work—you can get nothing, I think, upon which you can cast a valuation. Nor is it strictly analogous to a field for labor, because a field for labor is a specific thing. When you buy it, you know what it will produce; and if you sow certain seed, you will get certain results; and then, having deducted the value of your labor, and skill, and industry, and capital, and allowed yourself interest, the residue, if any, is profit. That depends upon the nature of the soil with which you have been dealing. But nothing of that sort can be predicated of the free-swimming fish. They are here to-day and there to-morrow; they have no habitat; they are nobody's property, and nobody can grant them.

I have dealt with this subject as I said we were to deal with it; not to depreciate it unreasonably, but to analyze it, and try to find out how we are to measure it. And having analyzed it in this way—which I am sure is subject to no objection, unless I carry it to an extreme—the methods which I have used in themselves are subject to no objection—it cannot be strange to your honors that the people of the United States said, through their government, that in securing from Great Britain her withdrawal of this claim of exclusion from these three miles, we did it, not for the commercial or intrinsic value of the right, so much as because of the peace and freedom from irritation which it secured to us. And that leads me to say what, perhaps, I should otherwise have forgotten, that in estimating the value to the people of the United States of the right to pursue their fisheries close to the shore in certain regions, you are not to estimate what we have gained in peace, in security from irritation, from seizures, and from pursuit. Those are the acts and operations of the opposite party. It is the value of the right to fish there, alone, that you are to consider. Why, if you pay to an organ-grinder a shilling to go out of your street when there is sickness in your house, it does not follow that his music was worth that price. Nobody would think of considering that a test of the value of his music, if a commission was appointed to determine what it was. So here; what we were willing to do to get rid of a nuisance, of irritation, of dangers of war, of honest mistakes, and opportunities for pretended mistakes—what we were willing to pay for all that, is no proof of the price at which we set the mere liberty of being there peacefully and in the exercise of a right.

The people of the United States can never look upon this exclusion, under the Treaty of 1818, as anything more than a voluntary surrender, on their part, for a treaty purpose, over a certain limited region, of what they believed to be their right—their right by virtue, as I had the honor to say to this tribunal yesterday, of the grants in the charters of Massachusetts and the other New England provinces, of an unlimited right to fish over all this region—a right which we won by our own bow and spear; the whole privilege being contested between the French and English, all of which might have become French, I do not think I am going too far in saying, had it not been for the prowess and determination of New England. I reminded your honors yesterday of instances in which we had contributed to force out the French from this country, to make it British, to make the seas British seas, and the fisheries British fisheries, in trust for the Crown and for ourselves. I may add one case, more interesting and bearing directly upon this province, and that is, the final expulsion of the French, which was carried out at Grand Pré

and its neighborhood; and whatever of reproach may be cast upon those who did it by the harp of the poet, or the pen of the philanthropist, I cannot but remember that that reproach must be borne mainly by my own Massachusetts. For it was Massachusetts troops and Massachusetts ships, under a Massachusetts commander, that forced those people away from their shores. But the historian will not forget that, whatever may have been the right or the wrong of that proceeding, its result was that it put an end forever to the machinations of the French with the Indians against the peace and security of this province, and the Province of Cape Breton, and left them and their appurtenances wholly and entirely British.

Your honors will be glad to know that I am now going to take up the last point of importance in our case, and that is, the value of free trade which this treaty has given to all the people of the provinces. Recollect what that value is. It is true that, in 1871, when we made this treaty, our duties were two dollars a barrel on mackerel, and one dollar a barrel on herring; but our right was to make these duties whatever we pleased, absolute exclusion, if two dollars and one dollar did not exclude. We had a right to legislate with a simple view to our own interests in that matter, and neither the Crown nor the Dominion could be heard on the floor of Congress. But we have bound our hands, we have pledged ourselves that we will put no duties on any of their fish of any kind, fresh or cured, salted or otherwise, or their fish-oil. They may, so long as the treaty lasts, be imported into any part of the United States without any incumbrance or duty whatever. Now, that the United States is the chief market for the mackerel of these provinces, I suppose it cannot be necessary for me to refer to any evidence to remind your honors. We have had before us the merchants who deal most largely in Prince Edward Island, Mr. Hall and Mr. Myrick, and we have had two or three or more merchants of Halifax, who did not come here for the purpose of testifying against their own country and in favor of the United States, and from all this evidence it appears conclusively that, with the exception of some bad mackerel, ill-pressed or ill-cured, and liable to be injured by heat, that may be sent to the West Indies to be consumed by slaves, the entire product goes to the United States. There is no market for it in Canada proper, and the merchants here, the dealers in fish, lie awaiting the telegraphic signal from Boston or New York to send there whatever mackerel there is, now that they are free from duty which is saved to them. I therefore think I may safely pass over the testimony introduced to prove that the United States is the great market. Some statistics were prepared to show that a duty of two dollars a barrel was prohibitory. In my view, it is quite immaterial. I cannot see how it is material, because, having the power to lay any duties we pleased, we have agreed to lay none, and the benefit to Great Britain, to these provinces, and to this Dominion is the obtaining of a pledge not to put on any duty, high or low, from a people who had the right to exclude the fish utterly, or to make their utter exclusion or their admission dependent upon our sense of our own interests from day to day. Why, until recently the corn-laws of England were based upon this principle, that they should exclude all foreign corn, as it is called in old mother English, all foreign "wheat," so long as England could supply the market, and whenever England failed to fully supply the market, then the foreign corn was gradually let in, according as the market-price rose. We might do that; we might do what we pleased; but we have tied our hands and agreed to do nothing.

The evidence presented by my learned friend, Judge Foster, and by

my learned friend, Mr. Trescot, to show that \$2 a barrel was prohibitory, on the testimony of these gentlemen from Prince Edward Island, and from the leading dealers in Provincetown and in Gloucester, was certainly abundantly sufficient. I think those gentlemen from Prince Edward Island said that if those duties were reimposed, they should retire from the business. Mr. James H. Myrick (page 432), in answer to the question, "I understand you to say that if the duty on mackerel was reimposed in the United States your firm would, except for a small portion of the season, give up the mackerel business and turn to something else?" said, "That is my opinion, decidedly."

Mr. Isaac C. Hall (page 485) says :

Q. Now, you take No. 3 mackerel, what would be the effect of a duty of \$2 a barrel in the United States markets?—A. We could not catch them and ship them there unless there was a great scarcity there, as happens this season.

Q. Practically, what would become of your business of catching mackerel if the duty of \$2 a barrel were reimposed?—A. Well, when a man runs his head against a post he must get around the best way he can.

Q. You are satisfied you could not add the duty to the price of the mackerel in the United States market?—A. No; it can't be done.

Then Mr. Pew, of Gloucester, testifies to the same effect; but I suppose there can be no doubt, under this weight of testimony, that the money charge against Great Britain is for the privilege of exemption from prohibitory duties, whatever may be prohibitory, whether it be \$2 or more.

Now, how was it, with this plain fact in view, that the learned counsel for the Crown were able to produce so many witnesses, and to consume so much time, in showing that they did not, after all, lose much by \$2 a barrel duty? Why, my learned friends who have preceded me have exposed that very happily. I fear if I were to say anything I should only detract from the force of their argument; but I think it is fair to say that it will rest on our minds, after we have adjourned and separated, as a most extraordinary proceeding, that so many men were found in various parts of the island, and from some parts of the mainland, who came up here and said that the fact that they paid a duty of \$2 on a barrel of mackerel before they sold it in the States, which is their only market, did not make any difference to them. They said it did not make *any* difference. They did not say it made little difference, but they said it did not make *any*. Now, if they had said, "We can catch the fish so much cheaper because this is our home; we can catch them so much cheaper because we catch them in cheap vessels and with cheap materials, close by where we live, that we can afford to undersell, to some extent, the American fishermen; and therefore the \$2 a barrel is not all to be counted as a burden," that would be intelligible. But these fishermen suddenly, by the magic wand of my learned friend, the premier of the island, and my learned friend who represents—I do not know in how high a position—the Province of New Brunswick, were all turned into political economists. "Well, my friend," says the learned counsel for Prince Edward Island, with that enticing smile which would have drawn an affirmative answer from the flintiest heart, "My dear friend, about this \$2 a barrel duty, does not that affect your profit in selling in Boston?" "No," says the ready witness. "And why not?" "Why, *because the consumer pays the duty.*"

Then the next witness, under, perhaps, the sterner but still equally effective discipline of the counsel from New Brunswick, has the question put to him, and he says, "No"; and when he is asked how this phenomenon is to be accounted for, he says, too, that "the consumer pays the duty"; until, at last, it became almost tedious to hear man after man,

having learned by heart this *cantatina*—"the consumer pays the duty"—perfectly satisfied in their own minds that they had spoken the exact truth, say that it did not make any difference. What school of politicians, what course of public lectures, what course of political speaking, what course of newspaper writing, may have led to that general belief, or at least expectation, of those fishermen who came here as political economists, of course it is not for me to say. But I have observed one thing, that even with my limited knowledge of political economy (which, I confess, is very limited), and with my moderate powers of cross-examination, not one of those witnesses could explain what he meant by the phrase, "the consumer pays the duty"; nor could he answer one question that went to test the truth of the maxim. "Suppose the duty had been five dollars a barrel, would it have been true that the consumer paid the duty, and that it would not disturb you at all?" Well, they did not know but that, in that case, it might be a little different. "But the principle would be the same?" No, they didn't know how that would be. "Will the demand continue at that price?" That they did not know, but they assumed it would. The truth was, as the court must have seen, that they were simple, honest men, who had a certain phrase which they had learned by heart, which they used without any evil intent, which they supposed to be true, and which, to their minds, cleared the matter all up. They seemed to think there was a certain law—they did not know what—a law of nations, a law of political economy, by which it came to pass that, whenever they brought a barrel of mackerel to Boston to sell, the purchaser went kindly to the custom-house and paid the duties, and then, having paid the duties, was prepared to deal with the owners of the fish on the same terms as if he had not done so, buy the fish, and pay them just what he would pay an American; and by some law, some inexorable law, the duties were paid by this man; and, the duties having been paid by him, the owners might go into the market to sell as low as anybody else. I think the question was not put, but it might have been put to them, "Suppose the duty, instead of being laid by the United States, had been laid by the provinces; suppose the Dominion, for some reason or other, had laid a tax of two dollars a barrel on the exportation of fish to the United States?" where would this political economist from Gaspé and from Shediac have been then? Why, certainly he would have had to pay his two dollars a barrel before his fish left the provinces, and he would have landed in Boston with his barrel of mackerel, so far as the duties went, two dollars behind the American fisherman.

I suppose it to be the case that the British subject can catch his fish and get them to Boston cheaper than the American can. We have better vessels, we pay higher wages, we must have larger, stronger vessels to come here and go back, to and fro; we cannot fish in boats; they can catch cheaper, and therefore it is true that in fair, open competition they have an advantage. I give them that credit on this calculation, and I hope your honors will remember it when you come to consider what they have gained by the right to introduce their fish on free and equal terms with us. They are persons who can catch cheaper and bring cheaper than our own people. However, without reasoning the matter out finely, we must come to this result: that if the Americans can supply the market at the rate of twelve dollars a barrel, and make a reasonable profit, and the Canadian can furnish his fish at the rate of eleven dollars and make a reasonable profit, and has two dollars duty to pay, he is one dollar behind, and so on. This is an illustration. It must ordinarily be so. And the only time when it can be otherwise, is

when the American supply fails and fish become very scarce. I am sure that when I began the investigation of this case, I should have thought that it was in the main true that as fish became scarce on the American coast, and from the American fishermen in the bay everywhere, the British fishermen coming in there could perhaps afford to pay the duty and still sell. But such is not the result. The figures have shown it. That has been proved. The difficulty is, that mackerel is not a necessity. It is not British mackerel against American mackerel, but it is British salted mackerel against every eatable thing in nature that a man will take to rather than pay very high prices. And it is true that fresh fish are more valuable and more desirable than salt fish; that fresh fish are increasing in number; that they are brought into market in quantities, ten, twenty, a hundred per cent. larger than they ever were before, and that the value of the salted mackerel is steadily and uniformly decreasing.

They brought men here also, who stated, under the same influence, that they would rather see the duties restored, and have the three-mile fishery exclusively to themselves, than to have what they now have. But I observed that the question was always put to them in one form, "Would you rather have the two-dollar duty restored?" The question was never asked them, "Would you rather go back to the state of things when the United States could put what duty upon your fish they might see fit, and preserve your monopoly of the three miles?" No man would have answered that question in the affirmative. I venture to say, may it please this learned tribunal, that no man of decent intelligence and fair honesty could have answered any such question affirmatively. And those who said they would rather go back to the same state of things, testified under a great deal of bias; they testified under a very strong interest, on a subject right under their eyes, which they felt daily, and which they may have been made to feel by the urgency of others. They did not suffer at all. It was not they who suffered from the attempt to exclude us. It was amusement to them, though it might have been death to some of us; and they imagined that if they did not have the duty to pay, which they all based their answer upon, of course they would rather go back to free trade and exclusion, for in their minds it amounted to that. They had not the duty to pay, although one was laid, and of course with no duty to pay, they would rather go back to that old state of things, and have the exclusive right to fish within three miles. I think that illusion may be safely predicated of nearly all the witnesses brought upon the opposite side by the counsel for the Crown.

A good deal of time was taken up on each side in presenting extracts from the speeches of politicians and parliamentarians, and men in Congress, as to what was the real value of free trade in fish, and the real value of the right to fish within three miles. Some extracts were read by the learned counsel for the Crown, from speeches made by certain members of the American Congress, who had a point to carry, and some arguments much stronger were produced by us from members of the Dominion Government who also had a point to carry. I do not attach the very highest importance to either of them. I hope I am guilty of no disrespect to the potentates and powers that be, in saying that, because I have always observed that men in public life who have points to carry will usually find arguments by which to carry them, and that their position is not very different from that of counsel, not before this tribunal, but counsel in court, strictly speaking, who have a point to maintain, and who have a verdict to get, because, woe to the statesman whose argument results in a majority of negatives, because he and his whole party, under the Dominion system, go out of power. It is not

so with us. Our members of Congress speak with less responsibility. They do not represent the government in the House, nor do they represent the opposition in such a sense that they are bound to take charge of the government the moment those in charge fail of retaining public approval. Our politicians, even in Congress, are a kind of "free-swimming fish." They are rather more like a horse in a pasture than like those horses that are carrying the old family coach behind them. They feel more at liberty. When we consider that the Dominion parliamentarians speak under this great responsibility, and meet an opposition face to face, who speak under equal responsibilities, when we consider that fact, and the number of them, and the strength of their declarations, all to the effect that the Provinces could not survive our duties any longer, and that in giving up to us the right to fish within the three miles, much was not surrendered, I think your honors, without reading it all over, or comparing these arguments, argument for argument, may say at once that whatever weight is to be attached to them, far more weight is to be attached to the utterances of the British officers, than to the few American politicians who may have lifted up their voices on this subject, in their irresponsible way. Moreover—your honors cannot have forgotten it—the fishermen of Provincetown and Gloucester remonstrated against this Treaty of 1871. They remonstrated against it as against their interests. Be it so. They were good judges of their interests. They stated that taking off the duties would make the fish cheap. They thought so; and they did not consider that the right to fish (and they were fishermen and knew their business) within the three miles was any compensation for that. And the remonstrance was made at the time, and it was earnest. The men went to Washington to enforce it. While men dealing in fish remonstrated against this concession, the officers of the British Crown, who were responsible, and whose constituents were fishermen and fish-owners, along a certain line of the Provinces, were contending earnestly for the treaty as beneficial, absolutely, to the Provinces.

Well, it has been said that they knew all the time that there was money to be paid. They knew no such thing. They knew there might, or might not be money to be paid, because this tribunal does not sit here to determine the *quantum* that the United States shall pay, but first and foremost to determine whether anything shall be paid, and that they could not pass any judgment upon. It certainly has abundantly appeared in this Case that the exportation of fish into the United States and the value of the fish here have risen and fallen steadily and almost uniformly with the right of free trade or the obligation to pay the duty. From 1854 to 1866, when there was free trade in fish, and we had the right to fish where we pleased, and they had free trade, and sent their fish to the American markets, immediately their mackerel fishery increased in value. Their boat-fishing, instead of being a matter of daily supply for the neighborhood, developed into a large business. The boats were owned by merchants, large quantities were shipped from them, and the business increased twofold, threefold, tenfold, as one of their own witnesses has stated, stimulated by the free American markets. I am reminded that the witness said it had increased an hundred fold. Your honors will perceive my moderation in all things. The witness to whom I refer is the fellow-citizen of our friend the premier of the island, Mr. John F. Campion, and I think he recognized him immediately upon his appearance on the stand:

Q. You say that the number of boats and men engaged in the shore fishery have increased; has the catch increased to any appreciable extent?—A. It has increased in the same ratio as the boats.

Q. In quite the same ratio?—A. Yes.

Q. To what extent did you say the number of boats had increased—100 per cent.?—

A. I would say that this has been the case within the last ten years.

“One hundred per cent.,” says Mr. Campion, from Prince Edward Island. He says this increase has taken place within the last ten years, but he does not undertake to define how far that increase began before 1866, whether it continued in the interval between 1866 and 1871, and how far it was resumed afterward. But we find that five years after the conclusion of the Washington Treaty the boat-fishing had increased one hundred per cent., and we know that it is the freedom of trade in fish that has made the boat-fishing of those islands; that has brought about their increase in size, which every witness has testified to who has been asked the question. I do not know whether my learned friends have asked the question or not, but we have asked it, and it having been testified to by two residents there, Mr. Hall and Mr. Myrick, and the Government of Great Britain having had ten days allowed them to bring rebutting testimony, brought none, we may, therefore, consider that matter as settled, that their growth has been largely in boat-fishing—in the number of boats, the number of men employed, the quantity of the catch, and the amount of capital invested—and that an examination will show that it is to the freedom of trade in fish that they owe it entirely.

I will read a few words to your honors from Mr. Hall’s testimony, who has very large experience, living, or if not living, doing business, on the northern part of the bend of Prince Edward Island:

Q. The boat fisheries of Prince Edward Island have increased and flourished very much for the last few years?—A. Yes, very much. They have good reasons for it.

Q. What reasons?—A. A better class of fishermen. When we first started business we had, of course, to work with green hands. Like every other business, it has to be learned, and men have to be prepared for it. Then when the duties were put on, the best fishermen left us and went aboard American vessels. They could ship from the island or go to Gloucester and get good vessels and have their fish go into the United States and sell for their whole value. We had no market and had inferior men. Now, since we have a free market, these men have been coming back. The character of the men and their ability to fish has increased very much. So much so that I honestly think you can calculate the catch of the same number of men now at 25 or 33 per cent. more than it was formerly.

Q. To what do you attribute this greater supply of boat fishermen and better quality?—A. These men find they can fish here. This is their home in many cases. A great many get boats and find they can do very well here now fishing, and they stock at home and fish from the shore.

Q. Now if the island were cut off from the United States market, what would become of this boat fishing, and what would become of the fishermen?—A. Well, these fishermen would probably go back to their old business. I would not want to fish if I had to pay the duty on mackerel.—(American Evidence, p. 483.)

Then we have the testimony of Mr. James R. McLean, of Souris, Prince Edward Island, called by the other side, and coming from the strongest point in favor of compensation, that is, the bend of the island:

We had to pay \$2 a barrel duty on the mackerel we sent to the United States, and the men would not stay in the island vessels when they saw that the Americans were allowed to come and fish side by side with the British vessels, and catch an equal share of fish; of course this was the result. The fishermen consequently went on the American vessels; our best men did so, and some of the best fishermen and smartest captains among the Americans are from Prince Edward Island and Nova Scotia.

There has been put into my hands what may be called an “account stated” on this subject of the balance between what is gained by the provinces by the removal of the duties, and what we gain by the extension of your right to fish. The principle on which it is made up is most unfavorable to us; I do not think it is a sound one, but some persons may. At all events, it is the most unfavorable to us.

Great Britain to United States, Dr.

To saving of duties on fish and fish-oil for 12 years, averaged from the returns of 1874, '75, and '76, from Appendix O \$4,340,700 00

Cr.

By value of mackerel caught within 3 miles of coast for 12 years, at \$3.75 per barrel, allowing one-third to have been taken within 3 miles of the shore, and assuming the catch for each year as equal to that given in the Port Mulgrave returns for 1874 (63,078½ bbls.) 946,177 50

Balance due United States 3,394,522 50

We were obliged to take Port Mulgrave returns for the year 1874, because, as your honors will recollect, nothing could extract the returns for 1875 and 1876 from the hands of the British counsel. No words of advice, no supplication, no bended knees, nothing could get from them those returns, so favorable to the United States, and we took the returns of 1874.

But, supposing it to be true that the exporter does not pay all the duties—of course, nobody believes that he pays nothing; but give him the fairest possible chance, supposing he pays one-quarter, and the consumer pays three-quarters, the result then is, that against the \$946,177.50 credited to Great Britain, we put one-quarter of the United States duties remitted, \$1,085,175, and it leaves a balance of \$138,997.50 in favor of the United States.

So that, bringing this matter as far as statistics can bring, it getting the value of the fish in Prince Edward Island, irrespective of the labor put upon it afterward, assuming one-third of the fish to be caught within the three miles, and to be of equal value with those caught outside, which certainly is not true; and supposing that of the duty of two dollars a barrel only one-quarter is paid by the consumer, still the balance remains in favor of the United States. If, gentlemen of the Commission, such is to be the mode of treating this subject, by taking values and balancing one against the other, that is the result.

I do not suppose, myself, it is possible to arrive at any satisfactory result by any such close use of statistics, on the other side or on ours. But a few general principles, a few general rules for our guidance, certainly are to be found in all this testimony and in all this reasoning. You have the United States able to put on what duties it pleased. You have its actual duties at two dollars per barrel, substantially prohibitory, which everybody said was prohibitory, except those deeply instructed political economists who come here with the impression that some good friend paid the duties for them, to enable them to get into market on equal terms with everybody else. That you have with certainty. Against that you have the most speculative opinion in the world, and that is as to the value to us of a franchise or a faculty, or a privilege, or a liberty to pursue the free-swimming fish of the ocean a little further than we ordinarily pursue him, with every vessel of ours coming into competition with fishermen from boats, who have every advantage over us, and to ascertain the value of that franchise, privilege, faculty, or whatever you may call it, irrespective of all the capital or industry that must be employed in its exercise.

Will your honors, before I take my seat, allow me to recapitulate, at the risk of tediousness, so that there may finally be no misapprehension, the points upon which the United States expects a favorable decision from this tribunal? I mean, not merely a decision in favor of peace, which we all hope for, but, technically, I mean a decision of this sort: that, having before you a matter of clear money, and of the abso-

lute right to lay duties without restriction, and a duty always laid of two dollars a barrel, from which the Dominion is now protected, and free admission to a market, which is their only market, you cannot find in the value of this faculty or privilege—taken in its historic view, taken with all its circumstances, its uncertainties, its expenses, the perils of exercising it, and all—that you cannot find in that an amount of money value which equals the money value which the Dominion certainly does receive.

Bringing it down, then, to a very few points, our position is this: We had, from the beginning down to 1818, a right to fish all over this region without any geographical limitation; we held it as a common heritage with all British subjects; we helped to conquer it, to bring it into the possession of Great Britain; we always regarded it as ours. When we had the war of the Revolution, we put that and everything else at stake. I concede it. The war did not destroy it. War never does. It is not the declaration of war that transfers a city from you to your enemy, it is the result of the war. Every war puts at stake the whole territory. During the wars the boundaries of the two nations are the line of bayonets, and nothing more nor less. But when the war ends, if it is a conquest, the conquered party has no territory to bound; he depends on the will of the conqueror. If there is no conquest, and the treaty is made upon the principle of *uti possidetis*, then the line of bayonets, when the war closed, is the boundary. If peace is made upon a special arrangement, or on the principle of *in statu quo ante bellum*, then the powers are restored to their old rights. The peace which followed our revolution was upon the latter principle. There was no conquest—certainly none by Great Britain over us—and peace was made upon the principle *in statu quo ante bellum*, except that we arranged for convenience the boundary-line a little different from what it was before the war. Everything else stood as it stood before, on the principle *in statu quo ante bellum*. And so stood the fisheries, which were just as much our possession, our property, and always had been, as anything else that we held. We held them under our charters, and we held them by right to the last, and the treaty was careful to say so, because, as pointed out by Lord Loughborough in the House of Lords, and by Lord North in the House of Commons, who was the instrument in the hands of the King in bringing about the unhappy war (no one, I think, considers it was “unhappy” now, on either side), they said: this treaty does not concede the right to the Americans to fish within three miles; it acknowledges it as an existing right, as one that they always had, and it makes the usage to fish by the Americans as the final proof, in all disputed questions of geography, political or natural. And so it rested down to 1818. When the Treaty of Ghent was made, in December, 1814, at the close of our war, the parties came together. The Americans utterly refused to hear a word calling in question their right to the fisheries or of geographical limits. Mr. Adams had his famous controversy with Earl Bathurst, in which that question was so fully argued, summarized in one portion of Mr. Wheaton’s work on international law, which has been the study of statesmen ever since, and still more fully, perhaps, in Mr. Adams’s book, which has been alluded to, in the controversy between himself and a certain politician who had undertaken to write a copy of a letter different from the original, but where he went into the whole question from beginning to end.

But, in 1818, when Great Britain was at peace with all the world, and when the two nations stood face to face over this subject, Great Britain claiming largely, we did not know what—fifty miles, sixty miles, unlimited King’s chambers; when vessels were arrested sixty miles from

the shore, on the ground that they were in the King's chambers; when they claimed that the Gulf of St. Lawrence was the King's chamber, where we had no right to fish; when the three-mile line was a new thing in international law; when each nation found it could not compel the other and both were desirous of peace; both had seen enough of fighting to desire that there should be no more fighting between brethren, that they should not shed brothers' blood over any contestation in a mere matter of money or interest, and not so much a matter of honor, of sentiment, as it might have been at any moment if any blood had been shed—then the two great powers came to a compromise, and Great Britain agreed, by implication, that she would not assert any claim of exclusion anywhere beyond the ordinary lines. Not a word was said on that subject. She never surrendered those extreme claims in terms, any more than she surrendered in terms the right to board our ships and take from them, at the discretion of the commander, any man whom the officer thought spoke the English tongue as an Englishman and not as an American. It was never conceded to us, although we fought a war upon it, but no one believed it would ever be attempted again to be put in force. But as to what was specifically done it was a compromise. Great Britain was not to exclude us from the Magdalen Islands within the three-mile line, or any geographical limit of the Magdalen Islands, or from Labrador from Mount Joly northward indefinitely, or from certain large portions of the coast of Newfoundland; and, on the other hand, we agreed that England might exclude us—it was a treaty agreement—during the continuance of the treaty from the rest of the Gulf of St. Lawrence within three miles of the shore. Unquestionably, as the letters of Mr. Gallatin and Mr. Rush, who made the treaty, show, we thought we had gained all that was of value at that time. It was not until about the year 1830 that this great change in the fisheries themselves came in, when they ceased to be exclusively cod fisheries, and became mainly mackerel fisheries. Then the importance of landing upon the shores to dry our nets and cure our fish was reduced to nothing; I mean practically nothing. We put it in the Treaty of 1871, but it has never been proved that we made any use of that liberty or power.

The advent of the mackerel—one of those strange mutations which seem to govern those mysterious creatures of the sea—the advent of the mackerel to this region, and to Massachusetts Bay, put a new countenance upon all this matter. It undoubtedly gave an advantage to the British side, and put us at once to somewhat of a disadvantage. Then came the demand of the islanders and of the people of the Dominion, and others, to carry into effect this exclusive system, to drive our fishermen off, not only from the three-mile line, as we understand it, but from the three-mile line as any captain of a cruiser chose to understand it. Nobody knew what the three-mile line was. Was it to be drawn from headland to headland? They so claimed. They made maps and marked out a line, running the whole length of Prince Edward Island, within three miles of which we must not go. They made other lines, so that the Bay of St. Lawrence, instead of being an open bay, an international bay, for the use of all, was cut up into preserves for fish, for the sole use of the inhabitants of the Dominion, by these artificial lines, drawn upon no international authority; and we never could know where we were, whether we were liable to seizure or not; and we could not predict what decisions the courts might make against us in case we were seized. It was a dangerous, a most unjust and unhappy state of things, the attempt to carry out the claim of exclusion at all, and nobody felt it more than Great Britain. She felt that it was, as one of the captains

of the royal navy said upon the stand the other day, immensely expensive to Great Britain to keep up this armament and this watch along the coast by British ships, and more particularly by the small provincial cruisers. It was perilous to confide to these men, the new-born officers of the provincial cruisers, the right to decide questions of international law, questions of the construction of the treaty, at their discretion, upon the quarter-deck, with a deep interest to secure what they were in search of, that is, vessels that could be seized. Then there was a guard of police to be maintained along the shore and information to be conveyed from point to point. The result was irritation, collision, honest difference of opinion; the American fisherman saying: "I am more than three miles from that coast, I know," and the British commander saying, with perhaps equal honesty, "you are less," and neither able to determine it; and the vessel is seized and carried into port, and nobody ever can determine where that vessel was when she was seized. And then we had pretty burdensome duties laid upon us by the legislatures of these provinces. The burden of proof was thrown upon every ship to prove that she was not subject to conviction, and she was liable to threefold costs if she failed; she could not litigate the question without bonds for costs, and it seems to have been left to the discretion of the captor when he should bring his captured ship into port, until we hear at last a judge in one of the provinces calling for an explanation why it was that an American ship, unjustly seized and discharged by him, had not been brought before him for months, until the voyage was destroyed, the men scattered, the cargo ruined, and the vessel greatly deteriorated; and no answer was given, nor did their majesties, the commanders of the cutters, think it necessary to give any, and I do not suppose it was.

The whole subject became a matter of most serious diplomatic correspondence, and, as I had the honor to suggest (and it was too painful a suggestion to repeat), a very little change in the line of a shot might have brought these two nations into war; because, when passion is roused, when pride is hurt, when sympathies are excited, it is hard to keep peace between even the best governments and most highly educated peoples. They feel the point of honor, they feel the sentiment that the flag has been insulted, that blood has been shed. The whole subject became too perilous to allow it to stand any longer. Great Britain was also led into difficulties with her provinces, by reason of their efforts to make the most of their three-mile exclusion, to which she was utterly indifferent. The provinces saw fit to make their lines as they pleased, and when they could not bring their great capes or headlands of the bays near enough together to exclude us, then they increased the line of separation which the law established. If "the mountain would not go to Mahomet, Mahomet must go to the mountain." If the bay persisted in being no more than six miles wide, then the provincials met it by a statute that it would do if it was ten miles wide; and they were telegraphed instantly from England, "That will not do; you must not treat the American people in that way. Go back to your six-mile line," and they obeyed at once. Then they attempted to reconcile the whole matter by the aid of a suggestion from Great Britain to give us licenses to fish within the three miles upon a nominal rent. "They have always fished there," she said; "we cannot have peace unless they do. We have tried to exclude them, and it is in vain. We must give up this exclusion; but we do not want to give it up and surrender it for nothing. We do not care for their money, but let them pay us a nominal license-fee as a recognition of our right to exclude." Very well; they put the fee at fifty cents a ton, and many Americans

paid it; not, they said, because they considered the right to fish farther than they had fished to be worth that amount, but peace was worth it, security was worth it. To escape the claws of the cutters and local police, to avoid the uncertainty of a conflict of judicial opinions, such as I have had the honor to lay before you, they did pay, to some extent, the charge for the license.

Then, as I have said, in that unaccountable and unaccounted for manner the license-fee was increased from fifty cents to a dollar a ton, and from a dollar a ton to two dollars a ton, with the certain knowledge that as only a portion had paid the fifty cents and a much smaller portion had paid the one dollar, probably none would pay the two dollars, and so substantially it turned out. Now, why did they do it? I do not know, as I said before. I charge nothing upon them. I only know the result was that we could not afford to pay the license. It was no longer what the British Government intended it should be, a license-fee of a merely nominal sum, as an acknowledgment of the right; but it put us, unlicensed, entirely in their power. Then they let loose upon us their cutters and their marine police. Well, the two nations saw it would not do, that the thing must be given up, and we came first to the treaty of 1854, and for twelve years we had the free scope of all these shores to fish where we liked, and there was peace; and certainly the British Government had free trade, and there was a profit to them, and, I hope, profit to us; and then we terminated that treaty, because we thought it operated unequally against us. We got nothing from the extended right to fish, while they got almost everything from the extended free trade. Then came back the old difficulties again. We returned to our duties, two dollars a barrel on mackerel and one dollar a barrel on herring, and they returned to their system of exclusion, and their cutters, and their police, and their arrests, and their trials. It became more and more manifest that they could not use their fisheries by their boats to profit, and we could not use them by our vessels to profit; and all things bearing together, also the great difficulty that lay between us and Great Britain with reference to the Alabama cases, led to this great triumph, gentlemen, because, I do not care which party got the best of it at this or that point, it was a triumph of humanity. It was a triumph of the doctrine of peace over the doctrines of war. It was a substitution of a tribunal like this for what is absurdly called the "arbitration of war."

And now, gentlemen, that being the history of the proceedings, we have laid before you, on behalf of the United States, the evidence of what Great Britain has gained in money value by our tying our hands from laying any duties whatever, and she has laid before you the benefits she thinks we have gained by the right to extend our fisheries along certain islands and coasts, and you are to determine whether the latter exceeds the former. Great Britain, I suppose, stimulated solely by the Dominion, called for a money equivalent, and we have agreed to submit that question; therefore we have nothing further to say against it. We stand ready to pay it if you find it, and I hope with as little remark, with as little objection, as Great Britain paid the debt which was cast upon her by another tribunal. The opinion of counsel sitting here for seventy days in conducting the trial, and in making an argument on the side of his own country, is extremely liable to be biased, and I therefore do not think that my opinion upon the subject ought to be laid before this tribunal as evidence or as possessing any kind of authority. I came here with a belief much more favorable to the English cause—I mean, as to what amount, if any, Great Britain should receive—from that with

which I leave the case. The state of things that was developed was a surprise to many; the small value of the extension of the geographical line of fishing to our vessels—I mean, to vessels such as we have to use—to the people of the United States, and the certain value that attaches to the provinces in getting rid of duties, has given this subject an entirely new aspect, and has brought my mind very decidedly to a certain opinion; and I am not instructed by my government to present any case that I do not believe in, or to risk anything that we do not think is perfectly right; and the counsel for the United States are of one opinion, that when we ask this Commission to decide that there is no balance due to Great Britain, in our judgment, whatever that judgment may be worth, it is what justice requires the Commission should do.

I have finished what is my argument within the time which I intended last night; but, Mr. President and gentlemen, I cannot take leave of this occasion, and within a few days, as I must, of this tribunal, without a word more. We have been fortunate, as I have had the honor to say already, in all our circumstances. A vulgar and prejudiced mind might say that the Americans came down into the enemy's camp to try their case. Why, gentlemen, it could not have been tried more free from outside influence in favor of Great Britain had it been tried in Switzerland or in Germany. This city and all its neighborhood opened their arms, their hearts, to the Americans, and they have not, to our knowledge, uttered a word which could have any effect against the free, and full, and fair decision of our case. The counsel on the other side have met us with a cordiality which has begun friendships that, I trust, will continue to the last. I say here and now, on behalf of my country, that we have had a trial under circumstances perfectly equal. We have had the utmost freedom. We have had the utmost kindness everywhere. I can say, in respect to my associates in this case (leaving myself out), that America has no cause to complain that her case has not been thoroughly investigated by her Agent and counsel, and fully and with great ability presented to the court; and I am certain that Great Britain and the Dominion, represented here by an Agent from the Foreign Office, devoted to the work before him, assisted by the constant presence of a member of the Dominion parliament largely acquainted with this whole subject, and with five counsel, one from each province of the Dominion, all capable, all indefatigable, with knowledge and skill, cannot complain that they have not been fully and ably represented. But, after all, the decision, the result, depends upon you three gentlemen who have undertaken, two of you at the request of your respective countries, and his excellency at the request of both countries, to decide this question between us.

It has been said—I have heard it—that your decision will be made upon some general feeling of what, on the whole, would be best for the peace of the two countries, without much reference to the evidence or to the reasoning. Mr. President and gentlemen, we repudiate any such aspersion upon the character of the court. We know, and we say it in advance, not that we *hope* this tribunal will proceed according to the evidence, and decide in accordance with the evidence and the weight of reasoning, but it must be so, and we congratulate your honors and your excellency in advance, that when this decision shall have gone out, whether it be for the one side or the other, whether it be a pleasure or a pain to the one side or the other or both, that it will be decided upon those principles which it is manifest the treaty determined it should be decided upon, not from some local or national view of policy for the present or future, not upon something which some hope may by-and-by

result in something better than the present treaty, but that you will confine yourselves to exactly what the treaty asks and empowers you to do, to determine what now shall be the pecuniary result; and I again congratulate this tribunal in advance that its determination will be such that, whatever may be the result and whatever the feeling, the two countries will know that the case has been heard under circumstances the most favorable possible to fairness, before a tribunal of their own selection, and that each of your honors will know that you have been governed by principle and by that rule of conduct which alone can give a man peace at last.

VII.

FINAL ARGUMENTS OF MR. WHITEWAY ON BEHALF OF HER BRITANNIC MAJESTY.

THURSDAY, *November 15, 1877.*

The Conference met.

Mr. WHITEWAY addressed the Commission as follows:

The duty devolves upon me in taking my part in the closing of this case, which has now engaged your most earnest attention for a period of over five months, of addressing you, first, on behalf of Her Majesty's Government, and in the discharge of that duty it has not been assigned to me, nor is it incumbent upon me to refer to the various treaties which, from time to time, have existed between Great Britain and the United States, relating to those important fisheries, which are the subject now under consideration. I apprehend that it is of little import, in respect to this case, whether the Reciprocity Treaty abrogated the Treaty of 1818, as contended for by the learned counsel on the opposite side; relegating our position to the status existing under the Treaty of 1783; or what effect the war of 1812 had upon the then existing treaties. These are questions outside the matters now under discussion, and I shall not deal with them. It is sufficient for me to take the Washington Treaty of 1871, which has been correctly termed "the charter of your authority," the bond under which you are acting, and make it the foundation of my argument. I am sure that no one who had the privilege of being present, and the opportunity of listening to the able exposition of my learned friend, the Hon. Mr. Foster, the racy, humorous, and slashing speech of my friend Mr. Trescot, and the classical and philosophical composition of Mr. Dana, could but feel that the United States had been represented by able and efficient men, possessing all the ability and earnestness which could possibly be conceived to be necessary, in order that the case of the United States might be placed before this Commission in the best possible light; and I heartily believe that there is existing between the Agents and the counsel, engaged in the conduct of this most important cause, an unanimous desire and an earnest zeal that justice may be meted out, and that your verdict may be such as will be satisfactory to each High Contracting Power, and have a material and lasting effect in the promotion of peace and harmony between Her Majesty's subjects on the one part and the citizens of the United States on the other. Reviewing, however, the speeches of the learned gentlemen to whom I have referred, it does appear to me that there has been a vast deal of irrelevant matter introduced; and that the real issues involved have been, in a manner, ignored, and cast into the background.

Substantially, no defense has been offered on behalf of the United States which materially affects the issue. Is there a substantial claim of Great Britain or not? It seems generally admitted that there is a right to receive something, and the question for you now to decide is not as to whether any sum is to be awarded to Great Britain, but simply as to the amount at which her claim should be assessed.

I now propose to discuss briefly the main issues involved, namely: the advantages derived, respectively, by each of the High Contracting Parties, under the Treaty of Washington; and the arguments which I desire to advance in support of the claim of Her Majesty's Government, I may here observe, will be confined entirely to that branch of the inquiry which has reference to Newfoundland; and I shall limit my observations to a consideration of such facts as have a direct practical bearing on the substantial advantages for which compensation is claimed. It has not been assigned to me to treat in any manner of the historic or diplomatic features of the case; these subjects, as far as it may appear requisite, will be, I do not doubt, ably and powerfully dealt with by my learned friends who will follow me on the British side.

It would be an unwarranted occupation of the time of this Commission for me now to revert to that interlocutory judgment which was delivered on the 6th of September last, by which it was decided that "it is not within the competence of this tribunal to award compensation for commercial intercourse between the two countries, nor for the purchasing bait, ice, supplies, &c., nor for the permission to transship cargoes in British waters." I may safely leave it to the consideration of your excellency and your honors, to what extent this decision shall weigh with you in arriving at the award which will be given by you. Narrowed and limited, however, as the subject of this investigation now is, as compared with what we supposed it would be at the outset, I must confess that I was not prepared for the summary disposal by my learned friend, Mr. Foster, of the claim made on behalf of Newfoundland. As I understand, in his speech, he asserts that that claim is presented, not for the privilege of fishing in the territorial waters of that island, but for the privilege of enjoying commercial intercourse with the people; and that the latter has been eliminated from this controversy by the decision of the 6th September. Further, he says, that there has been no fishing done by the United States citizens in the waters of Newfoundland, except the catching of a small quantity of halibut and the jigging of a few squid after dark. Were such in reality the nature of the claim, it would be difficult to conceive how such could be seriously preferred in an international inquiry of such importance. But surely my learned friend must have neglected to peruse the case presented, and to attend to the evidence adduced in support of it (which I cannot conceive him to have done) or he must have felt his inability to meet it with direct facts or arguments, and deemed it a wiser course to keep it conveniently in the background by dismissing it with a few depreciatory remarks. Much testimony is, however, before you, proving that United States citizens have prosecuted what are to them most valuable fisheries in the inshore waters of Newfoundland, to which evidence I shall presently draw your attention; but even supposing there had been up to the present time no such fishing, I cannot conceive, nor do I believe you will be of opinion, that Article XXII of the treaty will admit of the construction that a claim for compensation should be ignored for a privilege conferred upon the United States for a term of years, even if that privilege had not been availed of for a portion of the time. It does not follow but that, immediately your award is given, the privilege would be exercised to the

greatest possible extent for the residue of the term, when we should be left utterly without remedy.

I propose, then, first, to consider what has been conceded to the United States as concerns Newfoundland, and what is the value of that concession; and, secondly, what has been conceded by the United States to Newfoundland, and the value thereof.

The fisheries of Newfoundland are of historic celebrity, and have been so since the day when Cabot, with his five vessels, steering northwest, on June 24, 1497, caught the first glimpse of Terra Nova; and rejoicing in his success, named the high projecting promontory, which now bears the name of "Bona Vista"; and it is recorded that in such abundance were the codfish seen, that Sebastian Cabot called the country *Baccalaos*, in allusion to the circumstance; a name which still designates an island upon the coast. Of that period, which embraces the first century after the discovery of Newfoundland, we learn that by degrees there came to be attached to the cod fisheries on the Banks and around the coasts more and more importance; and that in 1578, according to Hackluyt, no less than 400 vessels were annually engaged in this employ. From thence, until the Treaty of Utrecht, 1713, the French, always discerning the enormous value of these fisheries, availed themselves of every opportunity and pretext, for further and further acquisitions, and for securing a foothold in the island as a basis for fishing operations. By that treaty Great Britain was solemnly confirmed in the exclusive sovereignty of the entire territory, but the French were recognized as having the right of fishing concurrently with the English along certain portions of the shore, and in the use of the shore as far as was needed for certain purposes connected with the fisheries.

It is needless for me here to refer to the various treaties respecting the fisheries, which have been from time to time concluded between Great Britain and the United States, and between Great Britain and France since that date; suffice it to say that, prior to 1871, the United States enjoyed a liberty to fish between Quirpon and Cape Ray on the west coast, and between Cape Ray and the Rameau Islands on the south coast. By the Treaty of Washington, of the 8th May, 1871, United States citizens acquired the right to take fish of every kind between Rameau Islands and Cape Race on the south coast, and between Cape Race and the Quirpon Islands, comprising a large area of the most valuable inshore fisheries of the world.

We find a steady increase in the products of Newfoundland fisheries, from 590,460 quintals of codfish exported in 1805, to 1,609,724 quintals exported in 1874. The exports of herring have also increased, from 36,259 barrels in 1851, to 291,751 barrels in 1876, and the value of exports of fish and products of fish, from \$4,466,925 in 1851, to \$8,511,710 in 1874. This, then, is the enormous annual product of the British fisheries of Newfoundland, almost the sole support and sustenance of about 160,000 people. And this, be it remembered, is exclusive of what is taken on the coast of that island at St. Pierre and Miquelon, on the coast of Labrador, and on the Grand Bank and other Banks by the French and by the Americans, of the amount of which we have no exact evidence before us; and it is also exclusive of the large quantity of bait fishes exported from Newfoundland to supply the French at St. Pierre. This result is the product of the labors of the Newfoundland fishermen, taken wholly from waters within three miles of the shore, except—for I wish to be particularly correct—the trifling quantity of about eight or ten thousand quintals of codfish, which Mr. Killigrew and Judge Bennett say may possibly be taken outside that limit. I

wish particularly to impress upon this Commission the fact of the codfish being so taken close inshore, because it has been asserted, both in the United States Answer and in the arguments of my learned friends on the other side, that the cod fishery is a deep-sea fishery, and not carried on within territorial waters. Add to this, then, the large catch of fish by the French vessels upon the coast, and of the French and United States vessels upon the Banks, the former, according to the statistics handed in by Professor Hind, averaging for a period of 8 years 217 vessels with 8,729 men; the latter forming a very large portion of the entire fishing fleet of the United States. Some approximate idea may thus be arrived at of the great wealth extracted from the Newfoundland fisheries. And it will no longer be a matter of surprise that this well-named Eldorado should have excited the cupidity of the French and of the United States.

The above includes the whole fishery of Newfoundland, Labrador, and the Banks. It will be seen what proportion of it is exclusively taken within the inshore limits thrown open to United States citizens by the Treaty of Washington, by the statements of Judge Bennett and Mr. Fraser, whose evidences will be found on pages 134 and 169, and who testify that it amounts, according to the statistical returns of the island, to \$6,000,000 per annum, taken by 15,000 men, excepting, as I before mentioned, about eight or ten thousand quintals, which may possibly be taken outside the three-mile limit, and in some cases, as Judge Bennett tells us, within hailing distance of the fishermen's homes.

I have so far given concisely the result of these fisheries in the past, and their present annual product, from which may be formed an idea of their probable yield in the future, and these annual results are derived from the evidence of witnesses, whose testimony is incontrovertible—which no attempt has been made to assail. I would now draw attention to the evidence of scientists, who have been examined before this Commission. Professor Baird, called on the part of the United States, says that he, with a force of experts, naturalists, and gentlemen interested in the biology of fishes, has been engaged for five years in the prosecution of enquiries into the condition of the fisheries, and that his principal object has been to ascertain what natural, physical, or moral causes influenced fish. "I think," says he, "the cod at the head of fish at the present day. There is no fish that furnishes food to so many people, the production of which is of so much importance, or which is applied to such a variety of purposes. The commercial yield is very great, and its capture is the main occupation of a large portion of the inhabitants of the sea-coast region of the Northern Hemisphere." As far as he can ascertain, there is a partial migration of the codfish. They change their situation in search of food, or in consequence of the variation of temperature, the percentage of salt in the water, or some other cause; and at the south of Cape Cod the fishery is largely off shore; that is, the fish are off the shore in the cooler waters in the summer, and as the temperature falls toward autumn, they come in and are taken within a few miles of the coast. The fish generally go off-shore in the winter, *but on the south coast of Newfoundland they maintain their stay inshore*, or else come in in large abundance; and the professor refers to the coast of Labrador and Newfoundland as *specially favored localities—as places inshore* where, among others, the largest catches of cod are taken, and, says the professor (p. 478 of United States Evidence), "it is certainly a notorious fact that herring are much more abundant on the coast of Newfoundland than they are on the coast of the United States; though whether the herring that are wanted on the United States coast could

or could not be had in the United States, I cannot say, but I do think that herring are vastly more abundant in Newfoundland and the Bay of Fundy than they are farther south."

Professor Hind, upon the same subject, says that he has given his attention especially to ocean physics, the habits of fish, and has made a particular study of the action of the Arctic current, and the effect of the Gulf stream, for a number of years; agreeing with Professor Baird, he gives the cod a primary position among fishes, and that it requires water of a low temperature. It always seeks the coldest water whenever ice is not present (p. 3, Appendix Q). He says also, "It is only where extreme cold water exists that cod is found throughout the year; and upon the American coast it is only where the Arctic current strikes that cod is found through the year."

A close study of history and authentic fishery records has enabled him to pronounce with authority that there are certain localities where the cod fisheries are inexhaustible, as the Straits of Belle Isle, the Grand Bank of Newfoundland, and, to use the professor's words, "*that amazing fishing ground on the south coast of Newfoundland.*" "*There is no portion of the world,*" he says, "*where there is such an amazing supply of cod. It has been so for three hundred years and upwards. Compared with European fisheries, the Newfoundland and Labrador are far superior in every respect.*" That the Newfoundland coast fishery is, on an average, compared with the Norwegian fisheries, including the Lofoden Islands (which Professor Baird speaks of as being one of the most important and productive fishing grounds), as five is to three, or where five quintals of fish are taken at Newfoundland, three are only taken on the coast of Norway, including the Lofoden Islands. He says the bays and all along the coast of Newfoundland, and also part of the Grand Bank, may be considered as the great spawning grounds of the cod, *and the great cod fishery of the world*; the conformation of the coast, the depth of water, the deep bays and inlets, and the numerous islands surrounding Newfoundland, are peculiarly adapted to constitute that coast as the home of the codfish. (Hind, p. 6, Appendix Q.) "I think there is no part of the world where, owing to the orographic features of the coast line, all the conditions of life for the cod are developed to such an extent as in the northeast coast of Newfoundland, the northern portion of the Grand Banks, and the southern part of the island."

The diagram carefully prepared by Professor Hind, showing the progress of the Newfoundland fisheries from 1804 to 1876, is conclusive evidence of their continuously increasing value and importance. I do not wish to delay the Commission by referring to that most interesting evidence of Professor Hind, where he graphically describes the myriads of diatoms amid the icebergs of the Arctic Seas, and traces, link by link, the chain of connection between the lowest minute forms of life, and the food of all fish inhabiting the cool temperature of the Arctic current; following the course of that current along the shores and banks of British North America, teeming with cod and other cold-water fishes; but let us proceed and see what practical men say on the subject, captains of United States Bankers. Captain Molloy (British Affidavits, p. 50, No. 53), says: "From my experience and observation, I am of opinion that the Bank fishery off the coast of Newfoundland is capable of vast extension and development, toward which the privilege of baiting and refitting in the harbors of Newfoundland is indispensable."

And Capt. Joseph P. Deneef (British Affidavits, No 52, p. 50, Appendix G), confirms this statement in every particular.

It is sufficient for me to observe that the scientific researches and

study of these learned professors, and the practical experience of these United States masters of vessels, combine to prove the vast source of wealth now existing in the Newfoundland waters, and the probability, nay, almost certainty, of there being still a richer mine of fishery-wealth than is apparent from their present partially developed state. My learned friend, Mr. Dana, admits the cod fishery to be the great fishery of his countrymen, and, quoting the late Mr. Howe, he alleges the impossibility of its depletion.

I now come to the question of bait-fishes, and the taking of them by Americans on the coast of Newfoundland. It was attempted to be shown by my learned friends on the other side that salt bait is better and less expensive than fresh. In the establishment of either of these positions a very short review of the evidence of their own witnesses will show that they have utterly failed. Major Low, put forth as an important witness upon this subject, had been one year fishing in the gulf, three years fitting vessels for the fishery, two years a warrior, then a town clerk in Gloucester, and now an official in the post-office. Such a variety of occupations, no doubt, gave him knowledge to speak with authority. He produces from the books of Mr. Steele an account of a cod-fishing voyage in the *Pharsalia*, in 1875 (p. 360, Appendix L), fishing with fresh bait; and another account of a vessel, the *Madame Roland*, in 1873 (p. 363, *ibid.*), fishing with salt bait, and because the result of the *Madame Roland's* voyage in 1873 realized more than that of the *Pharsalia* in 1875, this, in the major's opinion, is clear, conclusive evidence that salt bait is better than fresh. But did it never occur to him that the cod fishery in one year might be very prosperous, and in another unsuccessful? that two vessels in the same year might fish very near each other, even with the same appliances, and that one might be fortunate and the other not so? But the gallant major then makes a great discovery, that in the fresh-bait voyage there are some damaged fish, and he at once jumps to the conclusion that it is because fresh bait is used. Here is the evidence in answer to my learned friend, Mr. Dana (p. 362):

Q. Before you leave that, I want to ask you in reference to an item there—"damaged codfish?"—A. 13,150 pounds of damaged cod at 1 cent, \$131.50.

Q. Why should there be this damaged codfish; what is the cause of it?

[Here the gallant major desires to make a favorable impression, but he evidently does not desire to ruin our case entirely, and he answers reluctantly.] A. Well, I have my own opinion of the cause.

But he is pursued by my learned friend, and with crushing effect he answers:

Q. What do you believe to be the cause?—A. I believe the cause is going in so much for fresh bait.

This is terrible.

Q. How should that damage the codfish?—A. My opinion is that the salters salted it with the idea that they would not go in so much, and didn't put so much salt on it. When she went into port so much, going into the warm water it heated.

But upon cross examination, he says (p. 394 and 395, *ibid.*):

Q. Now, look at the trip of the *Pharsalia*, at which you were looking just now.—A. I have it before me.

Q. You see there is an item headed "damaged fish, at one cent a pound." You see that?—A. Yes.

Q. Will you find in the trip-book, which you presented here, another case of a Grand Bank fishing-vessel fishing with fresh bait, where there has been any damaged fish for these three years, 1874, 1875, and 1876?—A. The schooner *Knight Templar*. (Reads items of outfit, among others an item showing she was on a salt-bait trip.)

Q. Then there is damaged fish on a salt-bait trip?—A. Yes.

Q. Now find another case on a fresh-bait trip. (Witness refers to book.)

Q. I don't think you will find any. You see, fish may be damaged on board a salt-bait vessel fishing on the Banks as well as on a fresh-bait trip?—A. I see it.

Q. Now you find there are damaged fish as well with salt-bait fishing as with fresh.—A. I do find it.

Q. And it is upon that one case of damaged fish with fresh bait that you arrive at this conclusion?—A. I could not account for it in any other way.

Q. But it is this one case that you draw the conclusion from?—A. Yes.

Q. And you would lead the Commission to believe, then, that fish was l able to be damaged because of vessels going in for fresh bait, because of this one vessel on this one cruise?—A. No, I don't now. I have seen that other case.

Q. You withdraw what you said before?—A. I withdraw as far as that is concerned.

The gallant major has at last collapsed.

Mr. Atwood is also a great authority upon this point. He evidently belongs to the old school, being seventy years of age. He had not fished on the Banks for five and twenty years, his last voyage was November, 1851, and was really incapable of expressing an opinion from experience, having never used fresh bait. He endeavored to lead you gentlemen to believe that it was the opinion of all vessel-owners and agents of vessels in Provincetown that the going in for fresh bait was of no advantage, and that they purposed discontinuing it. He said that he had interviewed the agent of every vessel in Provincetown, but upon cross-examination it really appears that out of twenty-three or twenty-four agents of vessels he had held communication with four only, Cook, Waugh, Paine, and Joseph (p. 58, *ibid.*), and it would seem that Mr. Atwood had certain theories, and that he tried to enforce his opinion upon others as to this question of fresh bait. But what say practical witnesses, who have been called on the part of the United States and examined by my learned friends upon this subject. Edward Stapleton has been using fresh bait, obtained on the coast of Newfoundland, for the last three years, and carrying on the Bank fishery, and says at page 12: "If a vessel alongside of you has fresh bait, you are not going to catch your share of fish with salt bait." And at page 18:

Q. You consider salt bait superior to fresh bait, I believe?—A. O, no; I think fresh bait is the best.

Q. You do admit, then, that fresh bait is the best?—A. O, certainly, when other vessels on the Bank have it.

Q. When codfish see fresh bait they prefer it to salt bait?—A. Yes.

Q. Consequently you admit that it is of some advantage to you to be able to go to the coast of Newfoundland and get fresh bait?—A. O, yes, certainly it is.

Mr. Francis M. Freeman also says, at page 80:

Q. Is salt bait just as good as fresh?—A. Fresh bait is the best.

Q. Is it not more generally used?—A. When you can get it.

Q. If you can it is much better than salt?—A. Yes.

Q. Practically, the salt bait cannot compete with the fresh bait?—A. No; it is not as good as fresh.

Q. Don't the vessels that run over here from the United States and get bait from Nova Scotia use fresh bait altogether?—A. Yes; the Cape Ann vessels do.

Q. Don't they from Gloucester as well?—A. The Gloucester vessels use fresh bait altogether.

Q. Then you consider salt bait preferable?—A. No; I never said so.

Q. The fresh bait you consider preferable?—A. Certainly.

Q. But surely you don't mean to say that fresh bait is better than salt bait?—A. Yes.

Q. Do you mean to say that you can catch more fish with fresh bait?—A. Always.

Q. You can catch them faster?—A. Yes.

Q. You are certain of it?—A. Yes.

Mr. Lewis, at page 90, says, in answer to the query:

Q. It has been stated before us that trawls require fresh bait. Has that been your experience?—A. It is better to have fresh bait.

Q. Witnesses have told us that with trawls the bait lies on the bottom, and if it is not fresh the fish will not take it?—A. They will not take it as well as fresh bait, but they will take it if they cannot get anything else, and if they cannot get fresh bait.

Mr. Orne, at page 131, United States Evidence, makes the following statement:

Q. You left Gloucester with salt bait?—A. No; I took enough fresh herring to bait my trawls once; this was in 1870. If I remember right I went to the Brand Bank for halibut. I did not get a trip until after I had gone in for fresh bait.

Having thus referred to the opinions of some of the witnesses called by the United States themselves, and there are others who testify to the same effect, I will now call your attention to the evidence of those called on behalf of Her Britannic Majesty's Government.

Mr. John Stapleton, page 229, British Evidence, stated that "there is only a certain season on the Grand Bank that the squid is there. When it is there they get it there, but when they cannot they come inshore and get it. They either buy herring or mackerel, or they catch squid. Whatever they can get by catching or buying they put in ice and then go back." And in answer to the query, "Why cannot they prosecute the Bank fishery without this?" he answered, "Well, the fish won't bite without something."

Q. Cannot they bring these from their own country?—A. Yes, that is all very true. It may be that the first trip, when they went from home they had bait. But that will last for only one one or two baitings. And if they cannot get bait on the Bank then they have to haul up anchor and get it inshore.

Q. Well, is it necessary for them, then, to buy bait from you?—A. Well, the salt bait will not catch the fish while there is other bait there.

Q. For trawling it is absolutely necessary to have fresh fish?—A. Yes, if it was not necessary they would not come.

Mr. William McDonald, at page 311, *ibid.*, says:

Fresh bait is absolutely necessary to take codfish. Bank fishing could not be successfully carried on without it; American captains say they have to get fresh bait or they can catch no fish.

Q. How did you catch the cod?—A. We caught them with trawls.

Q. What kind of fish did you use?—A. Fresh bait—herring.

Q. Cannot you catch cod equally well with salt bait?—A. No.

Q. How do you know?—A. I have tried it.

Q. Tell us the result of your experience?—A. I have been on the Banks with nothing but porgies for bait—we generally took a few barrels with us to start upon—and run out our trawls, having the salt bait, and there appeared to be not one fish round, for we could not feel a bite or get a fish. I have then ran to land, got herring, and gone out to the same ground as near as possible, and put out the trawls and had an abundance of fish, where previously with a salt bait we got not a fish. Even if you bait your hook with a piece of salt porgie, and put a small piece of fresh herring on the point of the hook, you will have a fish on it.

Q. Your evidence amounts to this, that fresh bait is absolutely necessary to catch codfish?—A. Most undoubtedly.

Q. And without fresh bait Bank cod fishing cannot be successfully carried on?—A. I am quite sure of it.

Q. You are quite sure of it?—A. I am quite certain of it from practical experience. I have tried it.

Q. For how many years?—A. Four or five years. It is some time ago, but I believe from what American captains say, that it is worse now. They have to get fresh bait or they cannot catch any fish, they say.

Q. If the American vessels were not allowed to enter Newfoundland, Nova Scotia, and Cape Breton for fresh bait, they could not carry on the cod fishery?—A. No; it would be impossible. Any man with common sense knows that. They might carry it on to a certain extent, but not successfully.

Q. Have you ever conversed with American captains? Do you know whether that is their opinion?—A. Yes.

Q. They have so expressed themselves to you?—A. Yes; a number of times. There is not a year goes by but I talk with fifty of them.

Q. That is the general opinion of those acquainted with the fisheries?—A. Yes; it is the general opinion.

Q. Did you ever hear a man hold a different opinion?—A. I don't think I ever knew any man who held a different opinion.

Q. If witnesses came here and told a different story, what would you say?—A. I don't know how they could.

Mr. William Ross, collector of customs in this city, says, at p. 349 :

I think for the successful prosecution of the cod fishery fresh bait is absolutely necessary. I should think a vessel using fresh bait would catch at least double the quantity of fish.

And not to weary the Commission, I will merely add that numerous other witnesses have spoken to the same effect.

Now, as to the comparative cost of salt and fresh bait, I cannot do better than instance the case of the *Pharsalia*, as Major Low has selected her as the most expensive trip, with fresh bait, made by any of Steele's vessels during three years—1874, 1875, 1876. His evidence, at page 394, United States Evidence, is as follows :

Q. Well, now, what induced you to make the selection of this trip as an illustration of the cost of a vessel using fresh bait and going to the Grand Banks?—A. Because it covered so many ports which she entered, and the different rates charged for ice and bait.

Q. Is it not the most expensive trip that is in that book?—A. I think not.

Q. Turn up the other that is more expensive. See if you can find a more expensive trip than that. What years does that book cover?—A. 1874, 1875, and a portion of 1876.

Q. Now, is not this the most expensive trip made by any vessel using fresh bait during these years?—(After referring to the book) It may be. From what examination I have made, I think it may be.

Q. As far as you have gone, you find it to be the most expensive trip?—A. Yes.

The *Pharsalia's* trip, therefore, appears to have been the most costly one he could find, as regards fresh bait.

At page 360 of the United States Evidence it will be seen that the whole cost of fresh bait, for one voyage, according to Major Low's account of the *Pharsalia*, is \$251.97, including ice, port charges, commission to agents, &c. This is certainly much above the average. Now, then, let us see the cost of supplying a Grand Bank cod-fishing vessel with salt bait. At page 362, United States Evidence, the same witness, quoting from Mr. Steele's books, puts the price of slivers at \$8 per barrel, and of salt clams at \$11 per barrel. Francis Freeman at page 80, who has had several vessels upon the Grand Bank fishing, says (at page 82) that the average quantity of salt bait taken by a vessel of from 65 to 80 tons would be 50 barrels. Joshua Payne, another United States witness, who also fitted out vessels for the Grand Bank, says that one of his vessels took 40, another 60, and another 75 barrels. Assuming this average given by United States witnesses themselves to be correct, and accepting the valuation given by Major Low, and the fact stated by him in his account of the *Madame Roland*, that one-half was slivers and one-half clams, we get the following result :

For a trip with 50 barrels of salt bait :		
25 at \$8.....	\$200 00	
25 at \$11.....	275 00	
		\$475 00
For a trip with 40 barrels of salt bait		380 00
For a trip with 60 barrels of salt bait		570 00
For a trip with 75 barrels of salt bait		739 00

These, then, according to the statements made by United States witnesses themselves, are the costs incurred by vessels for their supply of salted bait, as against \$251.97, as shown before, for fresh bait.

I have, then, clearly established, out of the mouths of their own witnesses, that fresh bait is superior to salt, and costs far less money. But it is quite unnecessary for me to argue as to the comparative value of fresh and salt bait. We have in evidence, from the American witnesses, the plain, simple fact, that the obtaining of bait from the coast of Newfoundland was adopted as a practice about four years ago: that

it has increased annually, until in the present year nearly all the American vessels have gone to the coast for that purpose. The practice has become all but universal, and business men are not likely to do that which is inimical to their interests; what further evidence or proof can be required on this question?

I will now proceed to consider the position taken by my learned friend, Mr. Foster, when he asserts that the United States fishermen do not proceed to the coast of Newfoundland to fish for bait, but to buy it. I entirely join issue with my learned friend on this point. Apart from the bait actually caught by them, the arrangement under which the Americans obtain the bait, which they allege that they buy, is to all intents and purposes, and in law, a *taking* or fishing for it themselves within the words of the treaty. It has been asserted that nearly one-half of the crews of American vessels fishing upon the Banks consist of men from the provinces and from Newfoundland; if, then, a master of a vessel so manned proceeded to Fortune Bay with his herring-seine on board, or hiring a herring-seine there, then and there with his crew caught the bait he required, would it be contended that, because British fishermen were engaged in the hauling of that bait, that therefore it was not taken by the American masters? Surely such a position would be absurd.

Now, in reality what is the difference between this mode of proceeding and that practiced by the Americans for procuring bait? Let us see what is done according to the evidence. In some cases (and these are few) the American proceeds to St. Pierre, and there meeting a Newfoundland fisherman, owner of a herring-seine, and who possesses a thorough knowledge of the localities where the herring are to be taken, he agrees with him for a certain sum for his services, and it may be for one or two men besides, and for the use of his seine, to proceed to the fishing ground and there to secure the necessary quantity of bait required by the banker. Or in other and the large majority of cases the American vessel proceeds to the residence of such fisherman on the coast of Newfoundland and there makes a similar arrangement. Having arrived at the herring ground, the owner of the seine, with his one or two men and the assistance of some of the American crew, haul and put on board the American vessel all the bait that he requires, and sometimes receives his payment according to the number of barrels required for baiting a vessel, and sometimes in a lump sum. Again in other cases where squid is required and caplin, he goes to a harbor, states that he requires so much bait, and then and there enters into a contract with a man to go and catch it for him, for which he is paid according to the quantity caught. It would be a subtle distinction to draw between the man thus hired in Newfoundland outside the crew of the vessel to catch bait and the British subject who was hired in Gloucester to proceed to Newfoundland and do the very same work. How very different this contract is from a contract of sale and purchase. If the herring or other bait had been previously caught, barreled, and in his store ready to be sold to the first purchaser who would give him his price, then it would be a simple commercial transaction, but here the article required is a fish freely swimming in the sea. The American desires to capture it, and whether he captures it through the instrumentality of a British subject or other person and reduces it into his own possession for his own use it is immaterial, and never could there be a more suitable application of the maxim of law, *qui facit per alium facit per se*, than in the instance now before you. But this not the only way in which bait is taken by the Americans on the Newfoundland coast. They have of late taken seines on board their own vessels, proceeded to Fortune Bay,

and there not only have they taken bait for their own purposes, but they have taken it and proceeded to St. Pierre, have sold it to the French fishermen, thereby directly competing with the Newfoundlanders in a trade formerly entirely their own, and doubtless as it is a lucrative business the Americans will more and more practice it. They also catch bait-fishes to a large extent. I would now call your attention to the evidence which sustains the position I have thus assumed.

Mr. Killigrew, at p. 153 of the British Evidence, in answer to the question—

Q. How do they obtain caplin and squid? Do they take this bait themselves or purchase it from the people?—A. It is in this way—they generally hire a man who owns a seine, and the crew of the American vessel goes with him. This man receives so much for the use of his seine and for his services.

Q. This has reference to caplin?—A. Yes.

Q. How do they obtain squid?—A. They purchase it if they can; otherwise they catch it themselves.

Mr. Bennett, at p. 140 of the British Evidence :

Q. I want to understand whether in those localities American fishermen have been constantly coming in during the summer for bait?—A. Yes; every day during the season.

Q. The bait was sometimes purchased from the people and sometimes caught by themselves?—A. I think they always combined the two together. When taking the herring themselves with seines, their crew would haul in the herring with the assistance of the seining-master, and when jigging for squid the crew jig what they can and the skipper buys what he can. When seeking caplin they assist in the same way; some vessels bring their own seines for the purpose of taking caplin.

Q. What are the habits of squid?—A. Squid are never taken around Newfoundland except near the shore, on ledges, generally in a harbor or entrance to a harbor.

Mr. John F. Taylor, p. 296 of the British Evidence :

At Newfoundland Americans sometimes fish for bait inshore.

Mr. Patrick Leary, p. 66 British Affidavits :

I supplied him (James Dunphy) with bait. In 1870 and 1875 I gave him forty barrels of caplin each year. He found the crew, and I found the seine and gear. He paid me eight dollars each year for my services.

John McInnis, a witness called on behalf of the United States, pp. 192 and 195, says :

Q. How many barrels of bait do you take each time?—A. Sometimes fifty barrels, and sometimes forty. Some vessels take sixty barrels.

Q. Do you pay so much a barrel, or employ a man and pay him so much in the lump?—A. We will employ a man that has a seine, and he will go catching herring for so much; it may be \$30, \$40, or \$50 for all we want. If we want 40 barrels, we will give, say \$40; if they are scarce, perhaps more. He will take a seine, and perhaps be two or three days looking after them.

Q. You say, "I will give you \$30 or \$40 (as the case may be) to go and catch me so many barrels?"—A. Yes; that is the way it is done, and then sometimes we give \$10 for ice.

Q. Do you give any assistance in catching them?—A. Sometimes we do.

Q. You were asked as to the mode of getting bait, whether you employed those men that went for herring. Do you pay them wages, or pay them after the fish are caught?—A. We employ them before they go.

Q. But you don't pay them wages?—A. Yes, we have to pay them. If he goes and loses two or three days we have to pay him.

Q. You don't pay them whether they catch or not?—A. Yes; sometimes if I employ a man to go and catch them, if he loses three or four days sometimes I pay him.

Philip Pine, planter, residing at Burin Bay, Newfoundland, says, p. 61, British Affidavits :

I am acquainted with the fisheries of Newfoundland by following the same and supplying therefor since I was seventeen years of age.

I have observed a great number of United States fishing vessels in this neighborhood, there being as many as forty sail here at one time. These vessels came here for bait and for ice.

Richard McGrath, sub-collector H. M. customs, residing at Oderin, Newfoundland, p. 64, *ibid.*:

I have seen United States vessels in this neighborhood. In 1874 four or five of these vessels called in at the back of Oderin Island, having procured ice in Burin, and twelve miles from here hauled caplin for bait.

Robert Morey, supplying merchant and planter, residing at Caplin Bay, Newfoundland, p. 67, *ibid.*:

I have become acquainted with the fisheries of Newfoundland from being connected therewith since I was a boy. I have during the last two years seen a number of United States fishing-vessels in this neighborhood. Last season I can safely say I saw upwards of a hundred of such vessels either in this harbor or passing close by; there were five or six of these vessels in this harbor last year; they came for bait—for caplin during the "caplin school," and squids afterward. This bait they hauled themselves in part, and jigged squids. I saw six dories belonging to one of their vessels on the "jigging ground" busily employed jigging for squids. They also purchase bait from our people, being always in a hurry to get their bait as quickly as possible to proceed again to the Banks. Caplin they regularly haul for themselves when caplin is abundant, which it always is until the season advances. Each vessel takes about eighty barrels fresh caplin, which they preserve in ice purchased from our people. The bait hauled and jigged by these United States fishermen was taken in the harbor close to shore.

Peter Winser, planter, residing at Aquaforte, Newfoundland, p. 68 *ibid.*:

I have been connected with the fisheries of Newfoundland by either prosecuting the same or supplying thereof since I was fourteen years of age.

I have seen United States fishing-vessels in this harbor the past season as well as the year previous, getting bait; they jigged squids themselves in part, and what they were short of catching they purchased from our fishermen. Caplin they hauled themselves, using a seine belonging to a person residing in this harbor, which was worked by American fishermen, except one young man, the son of the seine owner. Four of these vessels have been in this harbor at one time catching bait; as many as fifteen have been at one time in Cape Broyle; I saw ten there one day whose crews were all engaged catching squids. In this immediate vicinity there were last summer not fewer than seventy of these United States vessels in our harbors during the caplin school; and I am well informed that between St. John's and Trepassy not fewer than two hundred have frequented the harbors for the supply of fresh bait, which they procured partly by catching for themselves and partly by purchasing. I am led to believe that it is the intention of the United States vessels to come in upon our shores and into our harbors to catch bait to convey to their schooners on the Banks, so that they may prosecute the cod fishery uninterruptedly. The supply of bait by each United States vessel per trip is about as follows: forty barrels caplin during the caplin school, and, as I was told by one of the captains, fifty barrels squids. United States vessels make two and three trips for bait.

I might multiply these instances *ad infinitum*, but I will only further call your especial attention to the affidavits read at the end of the rebuttal testimony, on behalf of Her Majesty's Government (No. 1 to 8 Appendix Q), which amply prove the state of affairs above referred to, and that United States vessels have this year been engaged in Fortune Bay trawling bait with very large seines, and supplying the French.

I would add with reference to the evidence of Mr. Joseph Tierney, quoted by Mr. Foster in his speech, that immediately after the answer with which Mr. Foster concludes his extract, the following question and answer occurs in cross-examination:

Q. You employ them and they go and catch so much bait for you?—A. Yes, that is the custom; that is, out of Gloucester.

We have it also in evidence from witnesses of the United States, that when vessels proceed to prosecute the cod fishery in the Gulf of Saint Lawrence, they take herring nets with them, and by that means, themselves, catch the bait they require. This is a practice which has existed for a number of years, and it must not be forgotten that the right to obtain bait on the coast of Newfoundland is an entirely new privilege; and is it to be supposed for a moment that the same mode of operation

which they have adopted with regard to the cod fishery in the gulf will not be that which the bankers will practice on the coast of Newfoundland? I cannot conceive it possible that my learned friend, Mr. Foster, will seriously contend, under the circumstances set forth in the above quoted evidence, that the Americans obtaining in this manner that which is indispensable for their efficient prosecution of the cod fishery, should, by a subtlety of reasoning which I contend is utterly unsustainable, be permitted to enjoy that which is of such infinite advantage to them, without yielding any equivalent whatsoever. Would this be in accordance with the simplest principles of right, equity, or justice?

But apart from the aspect of the case to which I have just alluded, there is another feature to which I must draw your most serious attention. Prior to your decision of the 6th September, it was assumed alike by the Newfoundlanders and Americans that the right of traffic, transshipment, &c., was conceded by the Treaty of Washington to American fishing vessels. But as by that decision it has been ruled that this has not been conceded, and that according to the construction of that decision by the learned agent for the United States, there has been granted "no right to do *anything* except water-borne on our vessels, to go within the limits which had been previously forbidden," I must ask you to assume that hereafter there will be no breach of the treaty in this sense by American citizens. What would be the effect of this according to the strict letter of the bond? American fishermen must have the fresh bait, as I have shown, and the only way in which they will be able to obtain it will be by catching it for themselves. I must then claim from you an assessment of the value of this privilege on the basis that during the ensuing years of the operation of the Washington Treaty, United States citizens will be under the necessity of catching for themselves the bait which they have not the legal right to buy. Surely my learned friends do not ask this Commission to assume that American citizens will hereafter surreptitiously avail themselves of privileges which do not of right belong to them, and that on this account the compensation now fairly and justly claimed on behalf of Newfoundland should be in any way reduced by reason thereof.

And now, one word with regard to the winter herring fishery in Fortune Bay. It appears that from 40 to 50 United States vessels proceeded there between the months of November and February, taking from thence cargoes of frozen herring of from 500 or 800 or 1,000 barrels. On this point, I would refer you to the affidavits by Mr. Hickman, Mr. Giovanninni, Mr. Hubert, and others, pages 53, 57, and 59 of British Affidavits. According to the evidence these herrings have hitherto generally been obtained by purchase. The trade is evidently increasing, as it seems that during the present year one vessel loaded 6,500 barrels. Mr. Pattillo, a United States witness, appreciated the right to catch so highly that he risked the confiscation of his vessel rather than abandon his determination to catch a cargo for himself. It is hardly possible, then, to conceive that the Americans will continue to buy, possessing, as they now do, the right to catch.

I desire next to pass on and consider the question as to the Americans exercising the privilege which has been conferred upon them of prosecuting those prolific cod-fisheries which I have shown to exist in the inshore waters of Newfoundland, where they have now the liberty to fish.

The number of United States vessels engaged in the cod fishery on the Grand Bank and frequenting the coast of Newfoundland for bait, according to the evidence, would appear to be from 400 to 500 at the pres-

ent time. Mr. Fraser, at p. 173, British Evidence, estimates the number at 500. The demands of a population of over forty millions necessarily call for an extensive area for the fishing industry of the United States, and wherever they can pursue their labors with success, there will the United States fishermen be found. And the inshore fisheries of Newfoundland, containing an area of upwards of 11,000 square miles, is a valuable acquisition to their present fields of operation. The French enjoy a similar liberty on the northeast and west coasts of the island to that which the United States now have upon the east and south coasts. The latter are more productive fishing-grounds, and are in closer proximity to the Grand Bank and other Banks. By the evidence before you it appears, and the fact is, that the French can and do carry on an extensive fishing business on the coasts where they have a right to fish. They send their vessels, of from 200 to 300 tons, from France, which anchor and lay up in the harbors, fishing in their boats in the neighborhood, close inshore, during the summer, and returning to France with their cargoes in the fall of the year. Again, other smaller French vessels pursue the cod-fishing all around the west coast; and as to the value set upon these fisheries by the French, some approximate idea may be arrived at from the jealousy with which their right has been guarded by their government throughout the long and frequent negotiations which have from time to time taken place between France and Great Britain upon the subject. It is true that heretofore the cod and halibut fishery has not been prosecuted by United States fishermen to any considerable extent on most parts of the coast of Newfoundland, but still there is evidence of their having fished successfully on the southern coast. William N. Mulloy, of Gloucester, master mariner, states in his affidavit (p. 51, British Affidavits

I know of two United States vessels that fished for codfish inside the keys, Saint Mary's, that is on the inshore ground. I fished there myself.

Philip Snook swears (p. 57, British Affidavits):

United States fishing vessels have fished on the inshore fishing grounds, but I cannot give particulars further than that I have seen them so fishing off Danzig Cove, near south point of Fortune Bay.

George Sims (p. 133, British Affidavits) says:

I have seen United States fishing vessels and crews catching codfish on the Newfoundland inshore fishing grounds, but cannot state the number, having made no records.

George Bishop, of Burin (p. 131, British Affidavits) also states:

American vessels have fished for codfish on our grounds off Cape St. Mary's. American masters partially refit their vessels occasionally at this port, but have not here transhipped their cargoes.

William Collins (p. 62, British Affidavits) says:

American fishermen do sometimes fish on the "inshore fishing-ground" of Cape St. Mary's. I have seen as many as three of these vessels fishing there.

Samuel George Hickman, residing at Grand Bank, Newfoundland (p. 58), says:

I have seen our shore surrounded by American fishermen fishing for halibut and codfish, but cannot say that all these vessels were inside three miles of a line from headland to headland; I have frequently seen United States vessels fishing between Pass Island and Brunette Island; in some instances these vessels have been fishing up the bay among the skiffs. I cannot speak of the quantity or value of their catches, but I do know that they destroyed the halibut fishery about Pass Island, and largely damaged the cod fishery of Fortune Bay; one of their captains told me "it was no use for our fishermen to go fishing after United States fishermen."

George Rose, of Little Bay, Fortune Bay (p. 54), says:

United States fishing vessels have fished about Pass Island, and formerly made good catches there. Captain Jacobs, of schooner ———, is said to have been offered nine

thousand dollars for his load taken about Pass Island. American fishing vessels fishing off and about Pass Island fished for halibut and codfish, but chiefly for halibut. My estimate of the value of their catch is at least equal to ten thousand dollars per annum, and such fishery was conducted exclusively within three miles of our shores.

There is no reason for supposing that the United States will not exercise the privilege which they have, to an equal or even greater degree than the French use theirs. The prospects for lucrative results are more promising to the United States than to France. The fishing grounds are better and more convenient. During the years 1871-'72-'73, when the United States first had the privileges granted by the Washington Treaty, there was but an occasional United States vessel which went to Newfoundland for bait. From 1873 to 1876 the number increased every year; and in 1877, the present season, it is stated in evidence that an immense number—one witness, I believe, says nearly all the Grand Bank vessels have supplied themselves there with fresh bait—and some have been employed in catching herring and conveying them to St. Pierre and Miquelon, for the purpose of sale to the French. They then enter into direct competition with our people. This, probably, is only a prelude to that competition in the Brazilian, West Indian, and European markets which we shall have to contend against. The Americans have, by virtue of the right to land and cure their fish, the same advantages which we possess for supplying those markets which now are the outlet of our products. This business, by Americans, is evidently a growing one, and as they acquire more and more intimate knowledge of the coast, its harbors, and fishing grounds, and their extent and productiveness; as they find out, which they will do, that they can obtain their fish close upon the coast, with all the conveniences which our inshore fishery affords, including the ready facilities for obtaining bait close at hand, with excellent harbors available for the security of their property, is it possible to conceive that there are not those who will prefer this investment of their capital rather than incur the risk of life and property and those expensive equipments which are incident to vessels engaged on the Bank fishery?

Mr. Foster, in an early portion of his speech, undertakes to show "why the fishermen and people of the United States have always manifested such a feverish anxiety" to gain access to the inshore fisheries. His explanation is that, at the time the various treaties which contain provisions respecting the fisheries were concluded, the mackerel fishery in the Gulf of St. Lawrence, as an industry, was unknown, and that their efforts were directed to maintain their claim to the deep-sea fisheries. As a matter of fact, the mackerel fishing by United States vessels in Canadian waters sprung up at a period subsequent to the Convention of 1818. With the circumstances under which this branch of the fishing business was commenced I am unacquainted; but, doubtless, a more intimate knowledge of the value of the inshore fisheries, acquired by constant resort, under the privileges accorded by the convention, to the coasts of British North America, coupled with the requisite knowledge of the localities, harbors, and fishing grounds, led those fishermen who had previously confined their operations to the cod, halibut, and hake fisheries, to enter upon the new and, as it has subsequently proved, lucrative pursuit of the mackerel. This development of the American mackerel fishery in the Gulf of St. Lawrence affords a fair illustration of that which will take place with regard to the Newfoundland inshore fisheries. Unquestionably the proceedings of this Commission, and the testimony which has been taken of the most successful and enterprising fishermen, will be studied by those engaged in the fishing business. New

ideas will be suggested to them, and wherever there appears to be a profitable field for the investment of capital, it will find its way in that direction, and to those places which may hitherto have been unknown or unappreciated by them.

I have only now to deal with the privileges conferred upon Newfoundland by the United States, and their value. As to the value of the United States fishing to us, that question has been summarily disposed of by learned friend Mr. Dana, as of not much account. It has not been deemed worthy of consideration by any of the learned counsel on the opposite side, nor has it been attempted to set it forth as of any worth to us. Therefore, it is unnecessary that I should further comment upon it, beyond calling your attention to the mass of unanimous testimony that Newfoundland vessels never have or can make profitable use of it.

The question of free-market in the United States for fish and fish-oil I may also dispose of in a short space. It will be fully dealt with by my learned friend Mr. Thomson. I will merely draw attention to certain facts in evidence in order that his arguments hereafter may be more easily applied to the Newfoundland branch of this case. The principal markets for Newfoundland cured codfish are the Brazils, West Indies, and Europe. The American market is very limited. By a return filed in this case (Appendix I), headed "Return showing the value of fish and products of fish imported from the United States of America, and exported to the United States and other countries from the colony of Newfoundland during each year from 1851 to 1876 inclusive," it appears that during these 26 years, which, of course, include 12 years under the Reciprocity Treaty, the average annual export from Newfoundland to the United States amounted to \$323,728 as against \$6,043,961, exports to other countries. It appears also that the United States market is decreasing, for the average annual export to that country for the 7 years between the Reciprocity Treaty and the Washington Treaty was \$348,281 as against \$6,876,080 to other countries, whilst the average annual export for the three years under the Treaty of Washington, viz. 1874, 1875, 1876, was \$222,112 to the United States as against \$7,792,859 to other countries, and further that there has been a steady falling off in the exports to the United States from \$285,250 in 1874 to \$155,447 in 1876. To what cause this is attributable it is difficult to say, but it may be to some extent accounted for by the increased facilities which the United States now possess and use under the Treaty of Washington, and by means of which they are enabled to supply their own wants in codfish. On the other hand it has been proved that a very considerable market for small codfish has been opened up in Newfoundland to United States banking vessels; that fish which was heretofore thrown overboard as unsuitable for the American market is now carried to Newfoundland and sold at remunerative prices. Captain Mulloy, a master of a United States banker, Mr. Charles Barnett, and others state as follows: The former, at page 51, British Affidavits, says:

The quantity of small codfish caught by each banker during the season will be fully two hundred and fifty quintals upon an average of every two loads of codfish caught upon the Banks. The number of United States vessels prosecuting the cod-fishery on the Banks off Newfoundland each season from the port of Gloucester is about three hundred; there are vessels fitted out from other ports in the United States besides Gloucester, but not to so large an extent. The average catch per vessel on the Banks will be two thousand five hundred quintals codfish, the value of which will be about twelve thousand dollars to the owner.

Prior to 1874, United States bankers threw away all fish less than 22 inches split, or twenty-eight inches as caught; now the small fish is brought into Newfoundland ports, and there sold, slightly salted, to advantage. I, last year, sold one hundred and fifty quintals of such fish at nine shillings and sixpence per quintal. The privilege of

selling oil in Newfoundland ports is of importance—also as providing necessary funds for the purchase of bait, and for refitting.

And the latter, at page 31:

Deponent bought small codfish and cod-oil from United States fishermen last year in payment of bait, ice, and cost of refitting their vessels; in some instances, deponent purchased small codfish, for which he paid in cash. The total quantity of small codfish purchased by deponent last year from United States fishermen was upwards of three hundred quintals, for which he paid prices ranging from eight shillings to eleven shillings per quintal of 112 lbs., green fish.

Deponent also purchased a considerable quantity of cod-oil from United States fishermen, particulars of which he has not at hand.

Also, Richard Cashin, page 69, British Affidavits:

United States fishermen have sold small codfish and cod-oil in this neighborhood. I have purchased codfish and cod-oil from them. The prices paid have been eight and nine shillings per cwt. for green codfish, and two shillings and sixpence per gallon for cod-oil. Eighty quintals fish and two and one-half tons oil is what I purchased.

And Richard Paul, page 63, British Affidavits:

American fishermen have sold fish and oil in this neighborhood. I only know of their selling thirty-seven quintals at 7s. per quintal, and seventy gallons of oil at half a dollar. I understand from their statements the past season, that hereafter they intend to sell to our people all the codfish they catch under 22 inches in length.

Phillip Hubert, sub-collector customs, Harbor Briton, Fortune Bay, page 54:

American fishermen have sold small codfish in this bay; some vessels sold one hundred quintals, the price ranging from 7 to 10s. per cwt., green.

In addition to which there are numerous affidavits in support of the same fact as regards the general sale of small codfish.

Previously to the Washington Treaty there had been a duty of \$1.30 per quintal on fish imported into Newfoundland, which, of course, is now removed, as far as concerns the United States. The utilization of this small fish is unquestionably an important item of gain to them. If there is a benefit to Newfoundland in a free market with the United States it has been reduced to its very minimum by the United States Government taking the tins in which salmon is put up, and by the refusal to admit seal-oil, an article of extensive export from Newfoundland, as a fish-oil, although in their own commercial language it is placed under that category. This, however, I presume, is a matter over which you have no jurisdiction; neither have you over the question of \$128,185 duties paid in the United States on fish and fish products imported from Newfoundland between 1871-1874 (referred to on page 173 British Evidence), when the United States were allowed to enjoy the benefits of the Washington Treaty on the distinct understanding that the enjoyment should be reciprocal, but which understanding was subsequently repudiated by the United States, and the above-mentioned amount of duties levied during those years remains unrefunded to the present day.

There is a ground of defense relied upon by my learned friends opposite, as to which I wish to offer one or two remarks. They contend, as I understand them, that the fishermen of Newfoundland are benefited by Americans coming to the coast and trading with the people; that that trading breaks down a system of business which they allege to exist between the merchant and the fisherman, by which the latter is held in bondage to the former; and as a proof of the existence of such a system, they put in evidence a memorial from the people of Placentia, dated August 19, 1800, praying for the establishment of certain fishery regulations which then existed in St. John's. The memorial will be found at (p. 167, British Evidence.) I will not detain you by reading it.

It is a singular mode of proving a present condition of affairs in 1877, to produce what may or may not be a statement of facts in 1800. I should not have considered the point worthy of notice, had not my learned friends brought it forward on more than one occasion, in terms which I conceive to be unwarranted. I will therefore only remark, that these assertions are amply disproved by the statements of Judge Bennett, Mr. Fraser, and Mr. Kelligrew, who have sufficiently proved the business operations of the country. But when I hear, on the one hand, my learned friend, Mr. Dana, loud in his assertions and professions as to all the good which Americans have done, and all that they are going to do, visiting our coast with money in their hands, and with the best of intentions; and I see, on the other hand, what they have really done, and what they are attempting to do—to take our fisheries without an equivalent—I am forcibly reminded of that line in the old Latin poet, "*Timeo Danaos et dona ferentes!*"

But I have up to the present treated this subject from a commercial standpoint only. This is presenting it in its narrowest and most contracted aspect. I claim from this commission a consideration of the privileges conceded by Article 18 of the Treaty of Washington, from a broad and national point of view. The United States, with its enormous population, ever increasing, demands extended resources from whence to draw those supplies of fish-food which she needs. She requires to build up and maintain her position as a great maritime and naval power—the largest and most extended field for the training of her seafaring people. The fisheries have ever been the nurseries for seamen. The extension of the fishing limits of the United States affords an investment for additional capital, and occupation for an energetic and enterprising people. The acquisition she has made under the Treaty of Washington adds to her national greatness. She has expanded beyond her former limits; her ships now float freely and unrestricted over the whole North Atlantic coastal waters. These considerations cannot fail to have weight with you. I ask whether, having now secured the privileges which she thus enjoys, would she yield them up for naught; or would she not rather brave every contingency for their preservation? If you believe such to be the case, it affords some additional basis upon which you may calculate what she should now pay for the sterling advantages she has acquired.

I have thus endeavored to state concisely the ground on which Her Majesty's Government sustains the claim preferred on behalf of Newfoundland. The particulars of that claim, amounting to \$2,880,000, are set forth in the case of Her Majesty's Government. I have proved to you the enormous value of those fisheries, heretofore the exclusive property of 160,000 people, which fisheries are now thrown open to a great and enterprising nation. I have proved that from 25 to 33 per cent. of the \$6,000,000 annually produced is profit. (See evidence of Mr. Fraser, Mr. Kelligrew, and Judge Bennett, British Evidence, and Mr. Munn, British Affidavits, p. 48.) You have the clear proof that from 400 to 500 United States vessels take from the Newfoundland coast that bait which is absolutely necessary, in order to a successful prosecution of the cod fishery on the banks. Every United States witness produced and examined upon this point has told you of the importance attached to the cod fishery, and the profitable results accruing from its prosecution. It is for you, sirs, to say what is a fair equivalent for the United States to pay for the privilege of fishing in common with us in these profitable waters, and obtaining from our shores that bait which is indispensable to enable them to carry on and develop that Bank fishery which a master

of one of their own vessels refers to as "being capable of *unlimited* expansion and development."

I have shown you how the citizens of the United States have used these fisheries in the past, how they are using them in the present, and the fair and legitimate conclusion that they will draw from them in the future all that capital and energy can bring forth. The "Case filed by Her Majesty's Government," the "Answer of the United States," and the "Reply," with the evidence, is before you. By that evidence your award will be governed. I ask neither for liberality nor generosity, but I ask for a fair equivalent for the privileges conceded. I have only to add that, when I have seen around me during this inquiry the array of eminent counsel and attachés, as well on the part of the United States as of Canada, when I have felt that no one amongst them had but a general knowledge of that most ancient colony which I have the privilege of representing at this Commission, and that I alone am intimately acquainted with her resources, and that a fair and true representation of her interests and claim depended solely upon my exertions, I must confess that I have felt a grave responsibility resting upon me; but I cannot sever my connection with this Commission without acknowledging how much that burden has been lightened by the courtesy which you have extended, and by the anxious solicitude which you have evinced to obtain all the information necessary to enable you to arrive at a just and equitable award. I have implicit confidence that you will conscientiously discharge the important duty devolving upon you, and I heartily join in the hope that your labors will result in harmonizing any present discordant feelings which may exist among those more immediately concerned, and the establishment of a lasting peace and good will.

Mr. DANA. Will your honors allow me one word, in order to set right a matter of fact, to which my learned friend referred, on a matter relating not to testimony or law but to the counsel of the United States. I understood him to say it was generally admitted, by the counsel of the United States here, that Great Britain has a claim for something to be paid, and that the only question was as to the amount. Was I correct in understanding you so?

Mr. WHITEWAY. Yes.

Mr. DANA. Then I wish to correct that as a matter of fact.

Mr. WHITEWAY. It seems to be generally admitted, I say. The language used by yourself and brother counsel led me to that conclusion.

Mr. DANA. The counsel for the United States, Mr. Foster, Mr. Prescott, and myself, all supposed we had said—certainly that was our opinion, and what we intended to say—that we believed that what Great Britain or the provinces received by a guarantee on the part of the United States that no duty shall be laid on fish or fish-oil coming from the provinces into the United States for the period in question, exceeded in value what we received by a guarantee from Great Britain that we might fish within the limits in these British waters; that is all I wish to set right. There is nothing in the argument of the learned counsel which gives us the least right to claim a reply. I think that he has confined himself strictly and honorably within the limits of the pleadings.

VIII.

FINAL ARGUMENT OF MR. DOUTRE ON BEHALF OF HER BRITANNIC MAJESTY.

FRIDAY, *November 16, 1877.*

The Conference met.

Mr. DOUTRE addressed the Commission as follows:

With the permission of your excellency and your honors, I will lay before this tribunal, in support of Her Majesty's claim, some observations, which I will make as brief as the nature of the case admits; and in order that these remarks may be intelligible, without reference to many voluminous documents, I solicit your indulgence while going once more over grounds familiar to the Commission.

As soon as the war, resulting in the independence of the confederated colonies, came to an end, the United States sought for a recognition of their new existence from Great Britain, and the Treaty of Paris of 1783 was agreed to. As an incident to the main object of that treaty, Art. 3 states: "The people of the United States shall continue to enjoy unmolested the right to take fish of every kind on the Grand Bank and on all other banks of Newfoundland; also in the Gulf of St. Lawrence, and at all other places in the sea, where the inhabitants of both countries used at any time heretofore to fish; and also the inhabitants of the United States shall have liberty to take fish of every kind on such part of the coast of Newfoundland as British fishermen shall use (but not to dry or cure the same on that island), and also on the coast, bays, and creeks of all other of His Britannic Majesty's dominions in America; and the American fishermen shall have the liberty to dry and cure fish in any of the unsettled bays, harbors, and creeks of Nova Scotia, Magdalen Islands, and Labrador, so long as the same shall remain unsettled; but so soon as the same, or either of them, shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such settlement without a previous agreement for that purpose with the inhabitants, proprietors, or possessors of the ground."

We have heard from counsel representing the United States very extraordinary assumptions, both historical and political, concerning the circumstances under which this treaty was adopted. At the distance of nearly a century, fancy can suggest much to literary or romantic speakers—especially when it concerns a subject on which they are not called upon to give any evidence—on which they can build an interesting record of their own opinions, before this Commission. We had to deal with a very complex matter of business—one which probably has never engaged the research of a judicial tribunal—and we thought this was enough for the efforts of humble men of business, such as we claim to be. Our friends on the American side treated us with a poetical account of the capture of the Golden Fleece at Louisburg, by Massachusetts heroes, in order to show how their statesmen of a previous generation had misconceived the nature of their primitive, conquered, and indisputable right to our fisheries, without indemnity in any shape. British historians, statesmen, or orators would probably have little weight with our friends in their estimate of treaty negotiations. With the hope of obtaining a hearing from our opponents, let us speak through the mouth of American diplomatists or statesmen.

It will strike every one that in the concessions contained in our Treaty of 1783 Great Britain did not extend to American fishermen all the rights belonging to her own subjects in these fisheries—a fact sufficient

in itself to preserve to Great Britain her sovereignty in that part of her dominions.

When the war of 1812 was brought to an end, the United States had not lived long enough as an independent nation to create that pleiad of eminent jurists, publicists, and secretaries of state who have since brought them up to the standard of the oldest constituted states of Europe. The characteristic elation of the nation who had but recently conquered their national existence marked the conduct of the United States Government during the negotiations of the Treaty of Ghent in 1814. They persistently refused to recognize a rule of international law which no one would now dispute, and which was, however, fully admitted by some of the United States representatives at Ghent, that war abrogates all treaties between belligerents.

Henry Clay, one of those representatives at Ghent, answered in the following manner the proposition of the British plenipotentiaries, who desired to include the fisheries in that treaty, as appears in the Duplicate Letters—The Fisheries and the Mississippi. By J. Q. Adams. P. 14 *in fine*:

"In answer to the declaration made by the British plenipotentiaries respecting the fisheries, the undersigned (United States representatives) referring to what passed in the conference of the 9th of August, can only state that they are not authorized to bring into discussion any of the rights or liberties which the United States have heretofore enjoyed in relation thereto. From their nature and from the peculiar character of the Treaty of 1783, by which they were recognized, no further stipulation has been deemed necessary by the Government of the United States to entitle them to the full enjoyment of all of them."

In order to fully understand the views entertained by the British and American plenipotentiaries, a few extracts from the correspondence between American diplomatists, published from 1814 to 1822, and contained in the book of Mr. Adams, will show the course adopted at Ghent by himself and his colleagues.

(Extract from Protocol of Conference held 1st December, 1814, at Ghent, p. 45:)

The American plenipotentiaries also proposed the following amendment to Article 8, viz: "The inhabitants of the United States shall continue to enjoy the liberty to take, dry, and cure fish, in places *within the exclusive jurisdiction of Great Britain*, as secured by the former treaty of peace; and the navigation of the river Mississippi, within the exclusive jurisdiction of the United States, shall remain free and open to the subjects of Great Britain, in the manner secured by the said treaty."

The following is the answer made by the British plenipotentiaries (extract from Protocol of Conference, 10th December, 1814, Ghent, p. 47):

His Britannic Majesty agrees to enter into negotiation with the United States of America respecting the terms, conditions, and regulations under which the inhabitants of the said United States shall have the liberty of taking fish on certain parts of the coast of Newfoundland, and other His Britannic Majesty's dominions in North America, and of drying and curing fish in the unsettled bays, harbors and creeks of Nova Scotia, Magdalen Islands, and Labrador, as stipulated in the latter part of the 3d Article of the Treaty of 1783, in consideration of a fair equivalent, to be agreed upon between His Majesty and the said United States, and granted by the said United States for such liberty aforesaid.

The American plenipotentiaries replied as follows (extract from American note after conference, of 12th December, 1814, p. 49:)

For the purpose of meeting what they believed to be the wishes of the British Government, they proposed the insertion of an article which should recognize the right of Great Britain to the navigation of that river, and that of the United States to a liberty in certain fisheries, which the British Government considered as abrogated by the war. To such an article, which they viewed as merely declaratory, the undersigned had no objection, and have offered to accede. They do not, however, want any new article on either of those subjects, they have offered to be silent with regard to both.

The British note of the 22d of December contained the following declaration (extract from British note of 22d December, p. 50) :

[So far as regards the substitution proposed by the undersigned, for the last clause of the 8th Article, as it was offered solely with the hope of attaining the object of the amendment tendered by the American plenipotentiaries at the conference of the 1st instant, no difficulty will be made in withdrawing it. The undersigned, referring to the declaration made by them at the conference of the 5th of August, that the privileges of fishing within the limits of the British sovereignty, and of using the British territories for purposes connected with the fisheries, were what Great Britain did not intend to grant without equivalent, are not desirous of introducing any article upon the subject.]

And the Americans thus replied (extract from the American note, 25th December, 1814, pp. 54, 55) :

At the first conference on the 8th of August, the British plenipotentiaries had notified to us, that the British Government did not intend, henceforth, to allow to the people of the United States, without an equivalent, the liberty to fish, dry and cure fish, within the exclusive British jurisdiction, stipulated in their favor, by the latter part of the third article of the Treaty of peace of 1783. And, in their note of the 19th of August, the British plenipotentiaries had demanded a new stipulation to secure to British subjects the right of navigating the Mississippi; a demand which, unless warranted by another article of that same Treaty of 1783, we could not perceive that Great Britain had any colorable pretense for making. Our instructions had forbidden us to suffer our right to the fisheries to be brought into discussion, and had not authorized us to make any distinction in the several provisions of the third article of the Treaty of 1783, or between that article and any other of the same treaty. We had no equivalent to offer for a new recognition of our right to any part of the fisheries, and we had no power to grant any equivalent which might be asked for it by the British Government. We contended that the whole Treaty of 1783 must be considered as one entire and permanent compact, not liable, *like ordinary treaties*, to be abrogated by a subsequent war between the parties to it; as an instrument recognizing the rights and liberties enjoyed by the people of the United States as an independent nation, and containing the terms and conditions on which the two parts of one empire had mutually agreed thenceforth to constitute two distinct and separate nations. In consenting, by that treaty, that a part of the North American continent should remain subject to the British jurisdiction, the people of the United States had reserved to themselves the liberty, which they had ever before enjoyed, of fishing upon that part of the coasts, and of drying and curing fish upon the shores; and this reservation had been agreed to by the other contracting party. We saw not why this liberty, then no new grant, but a mere recognition of a prior right, always enjoyed, should be forfeited by a war, any more than any other of the rights of our national independence, or why we should need a new stipulation for its enjoyment more than we needed a new article to declare that the King of Great Britain treated with us as free, sovereign, and independent States. We stated this principle in general terms, to the British plenipotentiaries, in the note which we sent to them with our project of the treaty; and we alleged it as the ground upon which no new stipulation was deemed by our government necessary to secure to the people of the United States all the rights and liberties stipulated in their favor by the Treaty of 1783. No reply to that part of our note was given by the British plenipotentiaries; but, in returning our project of a treaty, they added a clause to one of the articles, stipulating a right for British subjects to navigate the Mississippi. Without adverting to the ground of prior and immemorial usage, if the principle were just that the Treaty of 1783, from its peculiar character, remained in force in all its parts, notwithstanding the war, no new stipulation was necessary to secure to the subjects of Great Britain the right to navigate the Mississippi, as far as that right was secured by the Treaty of 1783; as, on the other hand, no stipulation was necessary to secure to the people of the United States the liberty to fish, and to dry and cure fish, within the exclusive jurisdiction of Great Britain. If they asked the navigation of the Mississippi as a new claim, they could not expect we should grant it without an equivalent; if they asked it because it had been granted in 1783, they must recognize the claim of the people of the United States to the liberty to fish and to dry and cure fish in question. To place both points beyond all future controversy, a majority of us determined to offer to admit an article confirming both rights; or, we offered at the same time to be silent in the treaty upon both, and to leave out altogether the article defining the boundary from the Lake of the Woods westward. They finally agreed to this last proposal, but not until they had proposed an article stipulating for a future negotiation for an equivalent to be given by Great Britain for the navigation of the Mississippi, and by the United States for the liberty as to the fisheries within the British jurisdiction. This article was unnecessary, with respect to its professed object, since both governments had it in their power, without it, to negotiate upon these subjects if they pleased. We rejected it, although its adoption would have secured the boundary of the 49th degree of latitude west of the Lake of the Woods, because it would have been a formal abandonment, on our part, of our claim to the liberty as to the fisheries recognized by the Treaty of 1783.

Mr. Gallatin wrote to the Secretary of State on the 25th of December, the day following the signature of the treaty, as follows (extract from letter of Mr. Gallatin to Secretary of State, 25th December, 1814, p. 58):

On the subject of the fisheries within the jurisdiction of Great Britain, we have certainly done all that could be done. If, according to the construction of the Treaty of 1783, which we assumed, the right was not abrogated by the war, it remains entire, since we most explicitly refused to renounce it, either directly or indirectly. In that case it is only an unsettled subject of differences between the two countries. If the right must be considered as abrogated by the war, we cannot regain it without an equivalent. We had none to give but the recognition of their right to navigate the Mississippi, and we offered it. On this last supposition, this right is also lost to them; and in a general point of view, we have certainly lost nothing.

Mr. Russell, who gave rise to all this correspondence, wrote from Paris on the 11th of February, 1815, in the following terms to the Secretary of State (extract from letter to Mr. Russell of the Secretary of State, 11th February, 1815, p. 66):

I could not believe that the independence of the United States was derived from the Treaty of 1783; that the recognition of that independence by Great Britain gave to this treaty any peculiar character, or that such character, supposing it existed, would necessarily render this treaty absolutely inseparable in its provisions, and make it one entire and indivisible whole, equally imperishable in all its parts, by any chance which might occur in the relations between the contracting parties.

The independence of the United States rests upon those fundamental principles set forth and acted on by the American Congress, in the Declaration of July, 1776, and not on any British grant in the Treaty of 1783, and its era is dated accordingly.

The Treaty of 1783 was merely a treaty of peace, and therefore subject to the same rules of construction as other compacts of this nature. The recognition of the independence of the United States could not well have given it a peculiar character, and excepted it from the operation of these rules. Such a recognition, expressed or implied, is always indispensable on the part of every nation with whom we form a treaty whatsoever.

(*Idem*, p. 69:)

It is from this view of the subject that I have been constrained to believe that there was nothing in the Treaty of 1783 which could not essentially distinguish it from ordinary treaties, or rescue it on account of any peculiarity of character from the *jura belli*, or from the operation of those events on which the continuance or termination of such treaties depends.

I know not, indeed, any treaty nor any article of a treaty, whatever may have been the subject to which it related, of the terms in which it was expressed, that has survived a war between the parties, without being specially renewed, by reference or recital in the succeeding treaty of peace. I cannot, indeed, conceive the possibility of such a treaty, or of such an article; for, however clear and strong the stipulations for perpetuity might be, these stipulations themselves would follow the fate of ordinary unexecuted engagements, and require, after a war, the declared assent of the parties for their revival.

(*Idem*, p. 75:)

I have in this view of the subject been led to conclude that the treaty of 1783, in relation to the fishing liberty, is abrogated by the war, and that this liberty is totally destitute of support from prescription, and, consequently, that we are left without any title to it whatsoever.

(*Idem*, p. 77:)

Considering, therefore, the fishing liberty to be entirely at an end, without a new stipulation for its revival and believing that we are entirely free to discuss the terms and conditions of such a stipulation, I did not object to the article proposed by us because any article on the subject was unnecessary or contrary to our instructions, but I objected specially to that article because, by conceding in it to Great Britain the free navigation of the Mississippi, we not only directly violated our instructions, but we offered, in my estimation, a price much above its value and which could not justly be given.

(*Idem*, p. 87:)

I have always been willing to make any sacrifice for the fishing privilege which its nature or comparative importance could justify, but I conscientiously believe that the free navigation of the Mississippi and the access to it, which we expressly offered, were pregnant with too much mischief to be offered directly, under our construction of the treaty, or indirectly, as they were in fact offered, as a new equivalent for the liberty of taking and drying fish within British jurisdiction.

Mr. Russel was supported by Henry Clay in these views.

Our learned friend, Mr. Dana, mentioned the circumstances under which England was carrying on the negotiations at Ghent. She was engaged in a continental war with the most illustrious warrior of modern times, and the Americans were more or less exacting according to her embarrassments. We have this described at p. 233 of Mr. J. Q. Adams's Correspondence, as follows :

Subsequently, however, the overthrow of Napoleon having left us to contend single-handed with the undivided power of Great Britain, our government thought proper to change the terms offered to the British Government, and accordingly sent additional instructions to Ghent, directing our commissioners to make a peace if practicable, upon the simple condition that each party should be placed in the same situation in which the war found them.

At the commencement of the war, the British had a right, by treaty, not only to navigate the Mississippi, but to trade with all our Western Indians. Of course our commissioners were instructed to consent to the continuance of this right, if no better terms could be procured. Under these instructions a proposition relative to the Mississippi and the fisheries, similar to that which had been rejected, was again presented, adopted, and sent to the British commissioners. But it did not restore the right to navigate the Mississippi in as full a manner as the British Government desired, and on that account, we presume, was rejected.

The following dates will explain the meaning of the paragraph referring to Napoleon. The mission to Ghent had met before the disasters to French arms, which resulted in the abdication of Napoleon on the 4th of April, 1814. Napoleon was conveyed to Elba in May following. With the slow communications of the time, the Americans learned only in June of the victories of England, which seem to have given a certain tone of firmness to her negotiations at Ghent. The treaty was signed on the 24th December, 1814. On the 1st March, 1815, Napoleon escaped from Elba and landed at Frejus. Americans regretted having precipitated their negotiations, and not being in a position to avail themselves of the renewal of war on the Continent to insist on better terms, many expressed their grief in unmeasured tones ; but it was too late.

Each of the contracting parties persisting in their views, the subject of the fisheries was excluded from the Treaty of Ghent ; but the United States soon learned that England was right, and they had to resort to the *ultima ratio* of another war to enforce their opinions, not only against Great Britain, but also against the universal sense of other nations. We read in the same book, page 240, that in the summer of 1815, British armed cruisers warned off all American fishing-vessels on the coast of Nova Scotia to a distance of sixty miles from the shores, and thereby, says our writer, the British Government proved significantly what they had meant by their side of the argument. On this, the Americans solicited and obtained the Convention of 1818. The first article of that treaty explains the circumstances under which it was come to :

Whereas differences have arisen respecting the liberty claimed by the United States for the inhabitants thereof, to take, dry, and cure fish on certain coasts, bays, harbors, and creeks of His Britannic Majesty's dominions in America, it is agreed, between the High Contracting Parties, that the inhabitants of the said United States shall have, forever, in common with the subjects of His Britannic Majesty, the liberty to take fish of every kind on that part of the southern coast of Newfoundland, which extends from Cape Ray to the Rameau Islands, on the western and northern coast of Newfoundland, from the said Cape Ray to the Quirpon Islands, on the shore of Magdalen Islands, and also on the coasts, bays, harbors, and creeks, from Mount Joy, on the southern coast of Labrador, to and through the Straits of Belle Isles, and thence northwardly indefinitely along the coast, without prejudice however to any of the exclusive rights of the Hudson Bay Company ; and that the American fishermen shall also have liberty, forever, to dry and cure fish in any of the unsettled bays, harbors, and creeks of the southern coast of Newfoundland, here above described, and of the coast of Labrador ; but so soon as the same or any portion thereof, shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such portion so settled without previous agreement for such purpose with the inhabitants, proprietors, or possessors of the ground. And the United States hereby renounce forever any liberty heretofore enjoyed or

claimed by the inhabitants thereof, to take, dry or cure fish on or within three marine miles of any of the coasts, bays, creeks, or harbors of His Britannic Majesty's dominions in America not included within the above mentioned limits. Provided, however, that the American fishermen shall be admitted to enter such bays or harbors, for the purpose of shelter, and of repairing damages therein, of purchasing wood and of obtaining water, and for no other purpose whatever. But they shall be under such restrictions as shall be necessary to prevent their taking, drying, or curing fish therein, or in any other manner whatever abusing the privileges hereby reserved to them.

The difference between this convention and the Treaty of 1783 consists in the exclusion of the Americans from the shore and bay fisheries which they enjoyed under the Treaty of 1783. This was more than sufficient to mark the abandonment by the Americans of the position assumed at Ghent, that war had not abrogated their fishing liberties under that treaty. It is, in fact, owing to that important difference that I have at this moment the honor of addressing myself to this distinguished tribunal.

Six years after the adoption of this convention, in 1824, differences grew out of the three-miles limit, though it does not appear to have arisen from the headland question, or fishing in bays.

Mr. Brent (as quoted at p. 8 of the United States Brief) speaks of American citizens who have been interrupted "during the present season in their accustomed and lawful employment of *taking and curing fish* in the Bay of Fundy and upon the Grand Banks, by the British armed brig Dotterel, &c.

Mr. Addington answers (p. 8 and 9 of United States Brief), that the complainants are not entitled to reparation for the loss they have sustained, having rendered themselves obnoxious, having been taken, some *flagrante delicto*, and others under such circumstances that they could have no other intention than that of pursuing their avocations as fishermen within the lines laid down by treaty as forming boundaries within which pursuit was interdicted to them.

The United States Brief, which is now confessed to have been inspired by a misapprehension of the facts, states (p. 9) that the claim to exclude the American fishermen from the great bays, such as Fundy and Chaleurs, and also from a distance of three miles, determined by a line drawn from headland to headland across their mouths, was not attempted to be enforced until the years 1838 and 1839, when several of the American fishing-vessels were seized by the British cruisers for fishing in the large bays.

This admission, coupled with the complaint of 1824, makes it evident that indisputable portions of the convention had been violated since American vessels had been seized in Two-Islands Harbor, Grand Manan. This was, even with the present American interpretation of the Convention of 1818, as to headlands, an evident trespass on prohibited grounds; and the rescue of the vessels seized by the fishermen of Eastport, and other similar instances should not be mentioned otherwise than as acts of piracy, which a powerful nation may disregard for peace sake, but will resent when treasured injury explodes on other occasions.

It has been the policy of certain American statesmen to lay the blame of most of their fisheries difficulties on the shoulders of colonists, in order to obtain their easy settlement at the hands of a distant, and (*quoad lucrum*) disinterested, imperial and supreme power. From a natural connection between causes and effects our maritime provinces, most in proximity to the United States, had to bear the brunt of a triangular duel, the chief part of which fell to Nova Scotia, who showed herself equal to the occasion. It can be shown that what was styled as almost barbarian legislation on the part of the Nova Scotia Parliament,

exists at this very hour in the legislation of the United States. And it is not a reproach that I am casting here against the United States. They have done like other nations who made effectual provisions against the violators of their customs, trade, or navigation laws, and they could not do less or otherwise than the legislature of Nova Scotia.

The customs statute of the Dominion, 31 V., c. 6 (1867), contains similar provisions to those of the fishing act of the same session, ch. 61, ss. 10, 12, 15, and lays upon the owner and claimant of goods seized by customs officers the burden of proving the illegality of the seizure; it obliges the claimant of any vessel, goods, or thing seized, in pursuance of any law relating to the customs, or to trade or navigation, to give security to answer for costs. Other parts provide for all the things contained in the Nova Scotia statute, so much animadverted upon, as being contrary to common-law principles, but which are applicable to British subjects as well as to foreigners. The imperial act, 3 & 4 Will., 4, c. 59, ss. 67, 69, 70, 71, consolidated former acts, dating as far back as when the thirteen revolted colonies were a part of the empire, contains similar provisions as our Dominion acts concerning customs and fisheries, and as the Nova Scotia statute of 1836. I had intended to cite some words of the American law on the subject, but the volume is not at hand. I supplement the omission by 1 Gallison, p. 191; 2 Gallison, p. 505; 3 Greenleaf, sec. 404, and note 2, p. 360; 5 Wheaton, sec. 407, p. 461, and sec. 411, p. 463.

Mr. DANA. Mr. Doutre, do you not consider that to the same effect as if the judge says that the government must make out a *prima facie* case?

Mr. DOUTRE. I have only read a small portion of the decision; but the seizure constitutes a *prima facie* case.

Mr. DANA. O, no.

Mr. DOUTRE. Seizure was made for open violation of the law, and it is for the claimant to show that he did not violate the law.

Mr. DANA. The decision is that the government must make out a *prima facie* case.

Mr. DOUTRE. It is impossible for me to satisfy your mind on that point; the report is very long, and if you read it you will be convinced that I am right.

Mr. DANA. It says the government are obliged by statute to prove a *prima facie* case.

Mr. DOUTRE. These cases are all of a similar character. I admit that the ordinary rules of evidence are here reversed. The reason is that the maintenance of the ordinary rules concerning evidence would work great mischief if applied to such matters as these.

Mr. FOSTER. This is a judgment based on suspicion, in the opinion of the court, and not on the opinion of the boarding officer.

Mr. DOUTRE. The boarding officer makes the seizure, and reports that he has made it, and unless the defendant comes and shows that the seizure has been illegally made, the court ratifies the seizure, and condemns the goods or ships seized.

Mr. DANA. Are you speaking of war now?

Mr. DOUTRE. No; of profound peace.

Mr. DANA. This was in time of war, and in the very case you cite it is said that the acts must be established by the government which has to make out a *prima facie* case.

Mr. DOUTRE. I will take the law of the United States on this point as establishing my view. I will now give the reasons why such legislation has been adopted in England, in the United States, and in Canada,

in an extract taken from a judgment rendered by the distinguished chief justice of Nova Scotia, Sir William Young, in December, 1870, *In re schooner Minnie*, court of vice-admiralty:

It must be recollected that custom-house laws are framed to defeat the infinitely varied, unscrupulous, and ingenious devices to defraud the revenue of the country. In no other system is the party accused obliged to prove his innocence—the weight of proof is on him, reversing one of the first principles of criminal law. Why have the legislatures of Great Britain, of the United States, and of the Dominion alike, sanctioned this departure from the mere humane, and, as it would seem at the first blush, the more reasonable rule? From a necessity, demonstrated by experience—the necessity of protecting the fair trader and counter-working and punishing the smuggler.

Mr. DANA. That is a British decision which you have read?

Mr. DOUTRE. Yes; a British colonial one.

The provisions of the Nova Scotia statute were intended to apply to a class of cases belonging to something similar to customs regulations, and are inseparable from them, and if ever our American friends desire to enforce on their coasts the three-mile limit, which their answer and brief recognize as resting on the unwritten law of nations, they will have to extend to this matter their customs law above cited, as did the legislature of Nova Scotia.

The learned Agent of the United States went very far from any disputed point to gain sympathy, by a reference to what, in the United States answer to the case, is called an inhospitable statute. He says:

A Nova Scotia statute of 1836, after providing for the forfeiture of the vessel found fishing, or preparing to fish, or to have been fishing within three miles of the coast, bays, creeks, or harbors, and providing that the master, or person in command, should not truly answer the questions put to him in such examination by the boarding officer, he should forfeit the sum of one hundred pounds, goes on to provide that if any goods shipped on the vessel were seized for any cause of forfeiture under this act, and any dispute arises whether they have been lawfully seized, the proof touching the illegality of the seizure shall be on the owner or claimant of the goods, ship, or vessel, but not on the officer or person who shall seize and stop the same.

These are the very expressions which the learned Agent for the United States employed when he animadverted on that statute. He also states that he is not aware whether a statute similar to this one, which existed in Nova Scotia in 1868, has been repealed. In 1867, however, Nova Scotia, New Brunswick, and the two Canadas were confederated together, and the matters relating to the fisheries and customs were then transferred to the Dominion of Canada, which has ever since exercised the sole power of legislation over those subjects. The best answer that can be given to Mr. Foster and his colleagues on this point may be quoted from high authority. The Agent for the United States, about the period of his arrival here to attend to his duties before this Commission, published in the "American Law Review," a journal which speaks with quasi-judicial authority in Massachusetts, an article on the *Francia*, having a prominent bearing on this case now before the Commission. I only mention this fact in order to show the high character of the Review. This journal, alarmed at the views proclaimed by President Grant, published a very able article on the subject, the writer being an eminent and able lawyer; and this article deals with the question of preparing to fish, as well as with the question of trade, both of which have been discussed by my learned friend, the Agent for the United States. In dealing with the claim of the right on the part of American fishermen to lie at anchor, clean and pack fish, and purchase bait, prepare to fish and transship cargoes, the writer says—

Mr. DANA. Will you have the kindness to state by whom these views are set forth?

Mr. DOUTRE. I am not quite sure of the name.

Mr. DANA. It is not Mr. Foster.

Mr. DOUTRE. No.

Mr. DANA. You do not know the author?

Mr. DOUTRE. I think I do.

Mr. FOSTER. Unless that is Professor Pomeroy's argument, it is something I have never before heard of.

Mr. DOUTRE. It is his argument, I am informed.

Mr. DANA. I wish also to say that this Review has no quasi-judicial authority. It is private property, and edited by private persons.

Mr. DOUTRE. I thus consider all publications of this nature.

All these acts are plainly unlawful, and would be good grounds for the confiscation of the offending vessel, or the infliction of pecuniary penalties. The treaty stipulates that "American fishermen shall be admitted to enter such bays and harbors for the purpose of shelter, of repairing damages therein, of purchasing wood, and obtaining water, and for no other purpose whatever." Even assuming, as has sometimes been urged, that the words "for no other purpose whatever" refer exclusively to matters connected with the business and process of fishing, the prohibition still covers all the acts enumerated. To use the bays and harbors as places of convenience in which to clean and pack fish, to procure bait, to prepare to fish, or to land cargoes of fish, would be an invasion of the exclusive fishing rights within the territorial waters secured to British subjects and denied to American citizens. "Preparing to fish," if permitted, would render it almost impossible to prevent actual fishing. When, from considerations of policy, statutes are made to declare some final result illegal, the legislature uniformly forbids the preliminary steps which are directly connected with that result, lead up to it, and facilitate its accomplishment. Thus, if Congress should absolutely prohibit the landing of certain goods in our ports, the United States Government would doubtless listen with amazement to a complaint from foreign importers that "preparing to land" was also prohibited. All customs and revenue regulations are framed upon this theory. The provision of the Imperial and Canadian statutes making it a penal offense for American vessels "to prepare to fish" while lying in territorial waters, seems, therefore, to be a "restriction necessary to prevent" their taking fish therein, and for that reason to be lawful and proper.

The claim of right to sell goods and buy supplies, the traffic in which the Nova Scotia act was intended to prevent, is thus commented on:

This particular claim has not yet been made the subject of diplomatic correspondence between the two governments, but amongst the documents laid before Congress at its present session is a consular letter, from which we quote:

"It (the Treaty of 1818) made no reference to and did not attempt to regulate the deep-sea fisheries, which were open to all the world. * * * It is obvious that the words 'for no other purpose whatever' must be construed to apply solely to such purposes as are in contravention to the treaty, namely, to purposes connected with the taking, drying, or curing fish within three marine miles of certain coasts, and not in any manner to supplies intended for the ocean fisheries, with which the treaty had no connection."

All this is clearly a mistake, and if the claims of American fishermen, partially sanctioned by the United States Executive, rest upon no better foundation, they must be abandoned. In fact, the stipulation of the treaty in which the clause occurs has reference alone to vessels employed in deep-sea fishing. It did not require any grant to enable our citizens to engage in their occupation outside the territorial limits, that is, upon the open sea; but they were forbidden to take, dry, or cure fish in the bays and harbors. They were permitted, however, to come into those inshore waters for shelter, repairs, wood, and water, "and for no other purpose whatever." To what American vessels is this privilege given? Plainly to those that fish in the open sea. To say that the clause "for no other purpose whatever" applies only to acts connected with taking, drying, or curing fish within the three-miles' limit, which acts are in terms expressly prohibited, is simply absurd. It would be much more reasonable to say that, applying the maxim *nos citatur a sociis*, the words "for no other purpose whatever" are to be construed as having reference solely to matters connected with regular fishing voyages, necessary, convenient, or customary in the business of fishing, and are not to be extended to other acts of an entirely different and purely commercial nature.

President Grant declares that so far as the Canadian claim is founded upon an alleged construction of the Convention of 1818, it cannot be acquiesced in by the United States. He states that during the conference which preceded the signing of this treaty, the British commissioners proposed a clause expressly prohibiting American fishermen from carrying on any trade with British subjects and from having on board goods except such as might be necessary for the prosecution of their voyages. He adds:

"This proposition, which is identical with the construction now put upon the language of the convention, was emphatically rejected by the American commissioners, and thereupon

was abandoned by the British plenipotentiaries, and Article I, as it stands in the convention was substituted."

The President has been misinformed. The proposition alluded to had no connection with the privilege given in the latter part of Article I, to enter bays and harbors for shelter and other similar purposes; but referred expressly and exclusively to the grant contained in the former part of the article of a right to take, dry, and cure fish on the coasts and in the bays of Labrador and Newfoundland. This is apparent from a reference to the negotiations themselves. On September 17, 1818, the American commissioners submitted their first *projet* of a treaty. The proposed article relating to the fisheries was nearly the same as the one finally adopted, including a renunciation of the liberty to fish within three miles of other coasts and bays. The proviso was as follows:

"Provided, however, That American fishermen shall be permitted to enter such bays and harbors for the purpose only of obtaining shelter, wood, water, and bait."

The British counter *projet* granted a liberty to take, dry, and cure fish on the coasts of Newfoundland and Labrador within much narrower limits than those demanded by the American plenipotentiaries. It admitted the fishing-vessels of the United States into other bays and harbors "for the purpose of shelter, of repairing damages therein, of purchasing wood, and obtaining water, and for no other purpose." It also contained the following clause:

"It is further understood that the liberty of taking, drying and curing fish granted in the preceding part of this article shall not be construed to extend the privilege of carrying on trade with any of His Britannic Majesty's subjects residing within the limits hereinbefore assigned to the use of fishermen of the United States. And in order the more effectually to guard against smuggling, it shall not be lawful for the vessels of the United States engaged in the said fishery to have on board any goods, wares, and merchandise, except such as may be necessary for the prosecution of the fishery."

Messrs. Gallatin and Rush replied, insisting upon a privilege to take, dry, and cure fish on the coasts of Newfoundland and Labrador within the limits first demanded by them, and added, as the last sentence of their letter: "The clauses making vessels liable to confiscation in case any articles not wanted for carrying on the fishery should be found on board, would expose the fishermen to endless vexations." On the 13th October, the British commissioners proposed Article I, as it now stands, which was accepted at once. There was no discussion of an alleged right of American fishermen to engage in trade, and no further allusion on the subject. Indeed, throughout all these conferences the American commissioners were laboring to obtain as extensive a district of territory as possible on Newfoundland, Labrador, and the Magdalen Islands for inshore fishing, and paid little attention to the privilege—then apparently of small value, but now important—of using other bays and harbors for shelter and kindred purposes. The British Agents, on the other hand, endeavored to confine the former grant within narrow bounds and to load it with restrictions. The rejected clause, concerning trade and carrying goods, was one of these restrictions, and in its very terms referred alone to the vessels taking, drying, and curing fish on the portion of the Newfoundland and Labrador coasts made free to our citizens. It should be noticed that the proviso finally adopted omitted the right originally demanded by the Americans of entering other bays and harbors for bait, and is identical with the one at first submitted by the British plenipotentiaries, strengthened by the addition of the word "whatever" after the clause "for no other purpose." It is evident, therefore that the British Government is not estopped from opposing the claim now set up by American fishermen, and sustained by the President, and anything that occurred during the negotiations preliminary to the treaty.

We must fall back, then, upon the accepted doctrines of international law. Every nation has the undoubted right to prescribe such regulations of commerce carried on its waters and with its citizens as it deems expedient, even to the extent of excluding entirely some or all foreign vessels and merchandise. Such measures may be harsh, and under some circumstances a violation of inter-state comity, but they are not illegal. At all events, it does not become a government to complain which now maintains a tariff prohibitory as to many articles, and which at one time passed a general embargo and non-intercourse act. There seem to be special reasons why the Dominion authorities may inhibit general commerce by Americans engaged in fishing. Their vessels clear for no particular port: they are accustomed to enter one bay or harbor after another as their needs demand: they might thus carry on a coasting-trade: they would certainly have every opportunity for successful smuggling. Indeed, this would legitimately belong to the local customs and revenue system, and not to the fisheries. We are thus forced to the conclusion that American fishermen have no right to enter the bays and harbors in question and sell goods or purchase supplies other than wood and water.

It is not necessary to add a word to the able and impartial language quoted, except to suggest that if the author had been now writing, he might have found a more forcible example of inhospitable legislation than the "general embargo and non-intercourse act," namely, the attempt to evade the plighted promise of the nation to remove the taxa-

tion from fish by taxing the cans—useless for any other purpose—in which the fish are sent to market.

While restoring to the legislation of Nova Scotia its true character, this article shows also which of the two decisions rendered, one by Mr. Justice Hazen, the other by the distinguished and learned chief justice Sir William Young, must be held to be the correct one on *preparing to fish*. The latter's judgment receives from this impartial source an authority which it did not require to carry conviction to all unprejudiced minds.

The necessity for the Nova Scotia statute of 1836, so much complained of, became apparent within a pretty short period.

In 1838, as mentioned in the United States Brief, p. 9, several American vessels were seized by British cruisers for fishing in large bays. Between the dates of the Nova Scotia statute and these seizures the American Secretary of State had issued circulars enjoining American fishermen to observe the limits of the treaty, but without saying what these limits were. Why did he abstain from giving his countrymen the text of the Convention of 1818, Article 1st? They could have read in it that the United States had renounced forever the liberty of taking, drying, or curing fish within three marine miles of any coast, bay, creek, or harbor, and that they could not be admitted *to enter such bays or harbors*, except for shelter, or repairing damages, or obtaining wood and water, *and for no other purpose whatever*. Every fisherman would have understood such clear language. Statesmen only could imagine that "bays" meant large bays, more than 6 miles wide at their entrance.

It was the privilege of eminent politicians, but not of the fishermen, to handle that extraordinary logic which involves the contention: 1st. That for the purpose of fishing, the territorial waters of every country along the sea-coast extend 3 miles from low-water mark. 2d. That "in the case of bays and gulfs, such only are territorial waters as do not exceed 6 miles in width at the mouth upon a straight line measured from headland to headland. 3d. That "all larger bodies of water connected with the open sea form a part of it." These words are taken from the Answer to British Case, pp. 2, 3). The framers of the Convention of 1818 must have meant those large bays, when they excluded American fishermen from *entering* into any bay, &c. The most that the fisherman could have said, after reading the text, would be that it must have been an *oversight*, and he would never have thought of taking the law in his own hand and disregarding a solemn contract entered into by his government. But, with his common sense, he would have said: The convention could not mean the small bays, since I am told by American lawyers that it did not require a treaty to protect the small bays against our interference. (See the Answer to the Case, at page 2.) The word bay could not mean anything but those large bays, which, in the absence of treaty stipulations, might by some be considered as forming part of the open sea. And, acting on this plain interpretation of the most clear terms, the fisherman would have abstained from entering into any bay except for the purposes mentioned in the convention. Old fishermen would, in addition, have taught the younger ones that there was a paramount reason why the American framers of the Convention of 1818 could have no desire to open the large bays to their fishermen, for the reason that up to 1827 or 1828, that is until ten years after the convention, mackerel had not been found in large quantities in the Gulf of St. Lawrence.

If, then, the circulars of the Secretary of the Treasury to American fishermen failed to put the latter on their guard, when the Nova Scotia

legislature showed such firm determination to enforce the rights of her fishermen and coerce the American to obedience to law and treaties, the responsibility of any possible conflict fell upon the American and not upon the British authorities.

Our friend, Mr. Dana, expressed, with vehemence of language which impressed us all, the serious consequences which would have followed if a drop of American blood had been spilt in these conflicts. We have too good an opinion of our American cousins to think that they would have been much moved if one of their countrymen had been killed while in the act of violating the law in British territory. The United States have laws as well as other nations against trespass, piracy, and robbery, and it is not in the habit of nations to wage war in the protection of those of their countrymen who commit any of these crimes in a foreign land. The age of filibustering has gone by and no eloquence can restore it to the standard of a virtue.

However, a state of things which is calculated to create temptations such as were offered to American fishermen in Canadian waters should beat all times most carefully avoided, and it was the desire of both British and American statesmen to remove such dangerous and inflammable causes of conflict which brought us to the Reciprocity Treaty of 1854.

By that treaty British waters in North America were thrown open to United States citizens, and United States waters north of the 36th degree of north latitude were thrown open to British fishermen, excepting the salmon and shad fisheries, which were reserved on both sides. Certain articles of produce of the British colonies and of the United States were admitted to each country, respectively, free of duty.

That treaty suspended the operation of the Convention of 1818, as long as it was in existence. On the 17th of March, 1865, the United States Government gave notice that at the expiration of twelve months from that day the Reciprocity Treaty was to terminate. And it did then terminate, and the Convention of 1818 revived from the 17th of March, 1866.

However, American fishermen were admitted, without interruption, to fish in British American waters on payment of a license, which was collected at the Gut of Canso, a very narrow and the nearest entrance to portions of these waters. Some American vessels took licenses the first year, but many did not. The license fee having been raised afterwards few vessels took a license, and finally almost all vessels fished without taking any. Every one will understand the impossibility of enforcing that system. All American vessels having the right to fish in British American waters under the Convention of 1818, those who wanted or professed to limit themselves to fishing outside of the 3-mile limit, had the right to enter on the northern side of Cape Breton without taking a license. As long as that license was purely nominal, many took it in order to go everywhere without fear of cruisers or molestation. When our license fee was doubled and afterwards trebled, the number of those who took it gradually dwindled to nothing. The old troubles and irritations were renewed, and many fishermen have explained before the Commission how embarrassing it was in many instances to know from the deck of a vessel how far from the shore that vessel stood. Three miles have to be measured with the eye, not from the visible shore, but from low-water mark. There are coasts which are left dry for several miles by the receding tide. When the tide is up, landmarks may be familiar to the inhabitants of the shore or frequent visitors of its waters but for the fisherman who comes there for the first or second time, or perhaps for the tenth time, but after intervals of years, it may be a diffi-

cult task to determine where he can fish with safety. And what can be more tempting, I should say tantalizing, than to follow a school of mackerel which promises a full fare in one day and a speedy return home, with the mirage of a family to embrace and of profits to pocket? Should men be exposed to such temptations when commercial intercourse and money as an *ultima ratio* present so many modes of removing restrictions? Is there any one of these varied modes of settlement which is worth the life of a man?

Great Britain and the United States owed it to their noble common ancestry and to their close relationship not to listen to the evil advice of passion, and to show to the world a new battle-field, where cool judgment and good-will are the most successful arms.

With the termination of the Reciprocity Treaty reappeared the cruisers and cutters among the fishermen, and irritation seemed to have acquired vigor and intensity during the suspension. Other international differences had grown up, from the beginning of the civil war, and had accumulated during the whole of that war, to such an extent that a spark might start a serious conflict. Fortunately cool heads were predominant in the two governments; the Joint High Commission was appointed, and the Washington Treaty reduced to a money question what, in former times, would have cost the lives of thousands of men, and would have, besides, entailed on both sides an expenditure of money ten times more considerable than the compensatory indemnities resulting from that treaty. Ten articles of that treaty concern the fisheries, from the 18th to the 25th, both inclusive, and the 32d and 33d. In addition to the liberties granted to them by the Convention of 1818, Americans are admitted, by Article 18, to fish everywhere, in common with British subjects, without being restricted to any distance from the coast, with permission to land for the purpose of drying their nets and curing their fish, provided they do not interfere with the rights of private property.

On the other hand British subjects are admitted, by Article 19, to the same liberties on the eastern sea coasts and shores of the United States, north of the 39th parallel of north latitude.

Article 21 declares that as long as the treaty shall subsist, fish-oil and fish of all kinds (except fish of the inland lakes and of the rivers falling into them, and except fish preserved in oil), being the produce of the fisheries of the United States or of the Dominion of Canada, shall be admitted into each country, respectively, free of duty.

By article 22 it is agreed that Commissioners shall be appointed to determine, having regard to the privileges accorded by the United States to the subjects of Her Majesty, the amount of any compensation which ought to be paid in return for the privileges accorded to the citizens of the United States under Article 18; and that any sum of money which the Commissioners may so award shall be paid, in a gross sum, within twelve months after the award given.

Article 33 stipulates that the fisheries articles shall remain in force for the period of ten years from the date at which they may come into operation, by the passing of the requisite laws, on both sides, and, further, until the expiration of two years after notice given by either of the parties of its wish to terminate the same.

The treaty came into operation on the 1st July, 1873. Great Britain claims from the United States a sum of \$14,880,000 for the concession of the privileges granted to the citizens of the United States for the period of twelve years.

On the part of the United States it is contended that the liberty of

fishing in their waters and the admission of Canadian fish and fish-oil duty-free in the markets of the United States, is equivalent to what Great Britain obtains by the treaty.

The questions now to be inquired into are: 1st. Is the British claim proved, and to what extent? 2d. Have the United States rebutted the evidence adduced on behalf of Her Majesty, and have they proved a set-off to any and what extent?

Wherever Americans have expressed a disinterested opinion about the gulf and other Canadian fisheries, they have never underrated their value, as they have in this case, where they are called upon to pay for using them.

At a time when no diplomatist had conceived the idea of laying the claim of the United States to these fisheries, on the heroic accomplishments of our army and navy from the old British colony of Massachusetts, as we have heard from the eloquent and distinguished United States counsel, before this Commission—at a time when, emerging from war, fit occasions offered themselves for reminding Great Britain of what she owed to the bravery of Massachusetts boys, who had planted her flag in the place of the French colors over this Dominion—in these times the right of fishing in those waters had accrued to the American people from no other origin than a concession by treaty, and no other basis than the *uti possidetis*. When another commission is appointed by England and France to settle the differences which exist between them in reference to the Newfoundland fisheries, I doubt much if the political oratory of our American friends could not, with a little change of tableaux and scenery, be turned to some account—such as the French reminding the English people of the miseries endured by Jacques Cartier during the winter he spent at Sable Island on his way to Newfoundland, Louisburg, and Quebec to bring European civilization among the aboriginal tribes.

Although it is hard to vouch for anything in such matters of fancy, I doubt much whether France will recall the heroic deeds of her Cartiers and Champlains to make herself a title to these fisheries. She will not make such light work of her treaties as our friends have done.

In the line of historical titles adopted by our learned friends, the Scandinavians would wipe out even the claim of Columbus, for three or four centuries before the discoveries of the great Genoese navigator, some of their fishermen had visited profitably the Banks of Newfoundland. My learned friends should be as much alarmed at the consequences of their fiction, as Mr. Seward was when, dealing with the headland question in the Senate, page 9 of the British brief, he pointed out that the construction put upon the word bay, by those who confined them to bodies of water six miles wide at their mouth, would surrender all the great bays of the United States.

While listening with pleasure to the narration of the great achievements of the Massachusetts boys, we could not understand why they shed their blood for those poor and unproductive fisheries. We looked a little at history, we searched for a confirmation of the pretensions of our friends, and we found a very different account, in the writings of their great statesmen, both as to the basis of their claim and as to the value of the fisheries.

John Quincy Adams, who represented with others, as has already been mentioned, the United States, at the Treaty of Ghent, in 1814, collected information. He applied to Mr. James Lloyd, and this gentleman, writing from Boston, on the 8th of March, 1815, communicated to

him what will be found from page 211 to page 218 of his "Duplicate Letters." A few citations will not be out of place here :

The shores, the creeks, the inlets of the Bay of Fundy, the Bay of Chaleurs, and the Gulf of St. Lawrence, the Straits of Belleisle, and the Coast of Labrador, appear to have been designed by the God of nature as the great ovarium of fish—the inexhaustible repository of this species of food, not only for the supply of the American, but of the European continent. At the proper season to catch them in endless abundance, little more of effort is needed than to bait the hook and pull the line, and occasionally even this is not necessary. In clear weather, near the shores, myriads are visible, and the strand is at times almost literally paved with them.

The provincials had become highly alarmed at the expansion of this fishery and trade; jealous of its progress and clamorous at its endurance; they, therefore, of late years, have repeatedly memorialized the government in England, respecting the fisheries carried on by the Americans, while the whole body of Scottish adventurers, whose trade both in imports and exports, and control over the inhabitants, it curtailed, have turned out in full cry and joined the chorus of the colonial governments in a crusade against the encroachments of the infidels, the disbelievers in the divine authority of kings, or the rights of the provinces, and have pursued their objects so assiduously that, at their own expense, as I am informed from a respectable source, in the year 1807 or '8, *they stationed a watchman in some favorable position near the Straits of Canso to count the number of American vessels which passed those straits on this employment. who returned nine hundred and thirty-eight as the number actually ascertained by him to have passed, and doubtless many others, during the night or in stormy or thick weather, escaped his observation*; and some of these aggressors have distinctly looked forward with gratification to a state of war as a desirable occurrence, which would, by its existence, annul existing treaty stipulations, so injurious, as they contend, to their interests and those of the nation.

The coast and Labrador fisheries are prosecuted in vessels from 40 to 120 tons burden, carrying a number or men, according to their respective sizes, in about the same proportion as the vessels on the Bank fishery. They commence their voyages in May, and get on the fishing-ground about the first of June, before which time bait cannot be obtained. This bait is furnished by a small species of fish called *caplin*, which strike inshore at that time, and are followed by *immense shoals of codfish which feed upon them*. *Each vessel selects her own fishing-ground, along the coast of the Bay of Chaleurs, the Gulf of St. Lawrence, the Straits of Belleisle, the coast of Labrador, even as far as Cumberland Island, and the entrance of Hudson's Bay, thus improving a fishing-ground reaching in extent from the 45th to the 66th degree of north latitude.*

In choosing their situation, the fishermen generally seek some sheltered and safe harbor or cove, where they anchor in about *six or seven fathoms water*, unbend their sails, stow them below, and literally making themselves at home, dismantle and convert their vessels into habitations at least as durable as those of the ancient Scythians. They then cast a net over the stern of the vessel, in which a sufficient number of caplin are soon caught to supply them with bait from day to day. Each vessel is furnished with *four or five light boats*, according to their size and number of men, each boat requiring two men. They leave the vessel early in the morning, and seek the best or sufficiently good spot for fishing, which is frequently found within a few rods of their vessels, and very rarely more than *one or two miles distant from them*, where they haul the fish as fast as they can pull their lines, and sometimes, it is said, the fish have been so abundant as to be gaffed or scooped into the boats without even a hook or line: and the fishermen also say that the codfish have been known to pursue the caplin in such quantities and with such voracity as to run in large numbers quite out of water onto the shores. The boats return to the vessels about nine o'clock in the morning, at breakfast, put their fish on board, salt and split them: and after having fished several days, by which time the salt has been sufficiently struck in the fish first caught, they carry them on shore and spread and dry them on the rocks or temporary flakes. This routine is followed every day, with the addition of attending to such as have been spread, and carrying on board and stowing away those that have become sufficiently cured, until the vessel is filled with dried fish, fit for an immediate market, which is generally the case by the *middle or last of August*, and with which she then proceeds immediately to Europe or returns to the United States: and this fish thus caught and cured is esteemed the best that is brought to market, and for several years previous to that of 1808 was computed to furnish *three-fourth parts* of all the dried fish exported from the United States.

The following statements, to be found on page 219 of the work, were furnished to Mr. Adams by a person whom he qualifies as a very respectable merchant, who dates his letter Boston, May 20, 1815:

My calculation is, that there were employed in the Bank, Labrador and Bay fisheries, the years above mentioned, 1,232 vessels yearly, viz, 584 to the Banks, and 648 to the bay and Labrador. I think the 541 bankers may be put down 36,540 tons, navigated by 4,627 men and boys (each vessel carrying one boy): they take and cure, annually, 510,700 quintals of

fish; they average about three fares a year, consume, annually, 81,170 hogsheads salt; the average cost of these vessels is about \$2,000 each; the average price of these fish at foreign markets is \$6 per quintal; these vessels also make from their fish, annually, 17,520 barrels of oil, which commands about \$10 per barrel; their equipments cost about \$900 annually, exclusive of salt.

The 648 vessels that fish at the Labrador and bay, I put down 48,600 tons, navigated by 5,832 men and boys; they take and cure, annually, 648,000 quintals of fish; they go but one fare a year; consume, annually, 97,200 hogsheads of salt. The average cost of these vessels is about \$1,600; the cost of their equipments, provisions, &c., is \$1,050. Those descriptions of vessels are not so valuable as the Bankers, more particularly those that go from the district of Maine, Connecticut, and Rhode Island, as they are mostly sloops of no very great value. Most of these vessels cure a part of their fish where they catch them, on the beach, rocks, &c., and the rest after they return home. Several cargoes of dry fish are shipped yearly from the Labrador direct for Europe. The usual markets for those fish are in the Mediterranean, say Alicant, Leghorn, Naples, Marseilles, &c., as those markets prefer small fish, and the *greatest* part of the fish caught up the bay and Labrador are *very* small. The average price of these fish at the market they are disposed of is \$5. These vessels also make from their fish about 20,000 barrels of oil, which always meets a ready sale and at handsome prices, say from \$8 to \$12 per barrel; the most of it is consumed in the United States.

1,232 vessels employed in the Bank, bay, and Labrador fisheries, measuring	85,140 tons.
Number of men they are navigated by	10,459
Number of hogsheads salt they consume	178,370 hds.
Quantity of fish they take and cure	1,158,700 quintals.
Barrels of oil they make	37,520 barrels.

There are also a description of vessels called jiggers or small schooners, of about 30 to 45 tons, that fish in the South Channel, on the Shoals and Cape Sables, their number 300; they carry about 4 or 5 hands, say 1,200 men, and take about 75,000 quintals of fish, annually; consume 12,000 hogsheads of salt, and make about 4,000 barrels of oil; their fish is generally sold for the Wst Indies and home consumption.

There are another description of fishing vessels commonly called Chebacco Boats or Pink Sterns; their number 600; they are from 10 to 23 tons, and carry two men and one boy each, say, 1,800 hands; they consume 15,000 hds. of salt, and take and cure 120,000 quintals of fish, annually. These fish also are wholly used for home and West India market, except the very first they take early in the spring, which are very nice indeed, and are sent to the Bilbao market in Spain, where they always bring a great price; they make 9,000 barrels of oil; these vessels measure about 10,300 tons.

There are also about 200 schooners employed in the mackerel fishery, measuring 8,000 tons, they carry 1,600 men and boys, they take 50,000 barrels, annually, and consume 6,000 hds. salt.

The alewife, shad, salmon, and herring fishery is also immense, and consumes a great quantity of salt.

Whole number of fishing-vessels of all descriptions	2,332.
Measuring	115,940 tons.
Number of men navigated by	15,059
Salt they consume	265,370 hds.
Quantity of fish they take and cure	1,353,700 quintals.
Number of barrels of oil	50,520 barrels.
Number of barrels of mackerel	50,000 barrels.

There are many gentlemen who assert, and *roundly*, too, that one year there were at the Labrador and bay, over 1,700 sail beside the bankers; but I feel very confident they are *much* mistaken, it is impossible it can be correct.

Then Mr. Adams gives the authority of his approbation, at page 233, to the following statements from "Colquhoun's Treatise on the Wealth, Power, and Resources of the British Empire," second edit., 1815.

The *value* of these fisheries, in table No. 8, page 36, is estimated at £7,550,000 sterling. "New Brunswick and Nova Scotia, from being both watered by the Bay of Fundy, enjoy advantages over Canada, which more than compensate a greater sterility of soil. These are to be traced to the valuable and extensive fisheries in the Bay of Fundy, which, in point of abundance and variety of the finest fish, exceed all calculation, and may be considered as a mine of gold—a treasure which cannot be estimated too high, since with little labor, comparatively speaking, enough could be obtained to feed all Europe." (pp. 312-313.)

Since the trade with the United States has been so greatly obstructed, the produce of the fisheries in the British colonies, thus encouraged by the removal of all competition, has been greatly augmented; and nothing but a more extended population is required to carry this valuable branch of trade almost to any given extent.

"It will be seen by reference to the notes in the table annexed to this chapter, that *the inhabitants of the United States* derive incalculable advantages, and employ a vast number of men and vessels in the fisheries in the river St. Lawrence, and on the coast of Nova Scotia, *which exclusively belong to Great Britain.* This dense population of the Northern States, and their local situation in the vicinity of the most prolific fishing stations, have enabled them to acquire vast wealth by the indulgence of this country." (p. 313.)

"It ought ever to be kept in view, that (with the exception of the small islands of St. Pierre and Miquelon restored to France by the Treaty of Paris, in May, 1840) the whole of the most valuable fisheries of North America *exclusively belong at this present time to the British Crown.* which gives to this country a monopoly in all the markets in Europe and the West Indies, or a right to a certain valuable consideration from all foreign nations to whom the British Government may concede the privilege of carrying on a fishery in these seas." (p. 314.)

"Private fisheries are a source of great profit to the individuals, in this and other countries, who have acquired a right to such fisheries. Why, therefore, should not the United Kingdom derive a similar advantage from the fisheries it possesses within the range of its extensive territories in North America (perhaps the richest and most prolific in the world), by declaring every ship and vessel liable to confiscation which should presume to fish in those seas without previously paying a tonnage duty, and receiving a license limited to a certain period when fish may be caught, with the privilege of curing such fish in the British Territories? All nations to have an equal claim to such licenses, limited to certain stations, but to permit none to supply the British West Indies, except His Majesty's subjects, whether resident in the colonies or in the parent state." (p. 315.)

St. John's or Prince Edward's Island.

"FISHERIES.—This island is of the highest importance to the United Kingdom. Whether the possession of it be considered in relation to the Americans, or as an acquisition of a great maritime power, it is worthy of the most particular attention of government. Mr. Stewart has justly remarked, in his account of that island (page 296), that the fishery carried on, from the American States, in the Gulf of St. Lawrence for some years past is very extensive, and is known to be one of the greatest resources of the wealth of the Eastern States, from which about 2,000 schooners, of from 70 to 100 tons, are annually sent into the gulf. Of these about 1,400 make their fish in the Straits of Belleisle and on the Labrador shore, from whence what is intended for the European market is shipped off without being sent to their own ports. About six hundred American schooners make their fares on the north side of the island, and often make two trips in a season, returning with full cargoes to their own ports, where the fish are dried. The number of men employed in this fishery is estimated at between fifteen and twenty thousand, and the profits on it are known to be very great. To see such a source of wealth and naval power on our coasts, and in our very harbors, abandoned to the Americans is much to be regretted, and would be distressing were it not that the means of reoccupying the whole, with such advantages as must soon preclude all competition, is afforded in the cultivation and settlement of Prince Edward's Island." pp. 318, 319.

It must be remembered that these statements were for the last 10 years of the last, and the first 10 years of the present century.

We are not informed where the 50,000 barrels of mackerel were then caught, but we have the opinion of Senator Tuck, cited at pages 9 and 10 of British Brief, who says:

Perhaps I should be thought to charge the Commissioners of 1818 with overlooking our interests. They did so in the important renunciation which I have quoted, but they are obnoxious to no complaint for so doing. In 1818 we took no mackerel on the coast of British possessions; and there was no reason to anticipate that we should ever have occasion to do so. Mackerel were then found as abundant on the coast of New England as anywhere in the world, and it was not until years after that this beautiful fish, in a great degree, left our waters. The mackerel fishery on the provincial coast has principally grown up since 1828, and no vessel was ever licensed for that business in the United States until 1838. The Commissioners in 1818 had no other business but to protect the codfish, and this they did in a manner generally satisfactory to those most interested.

From the assertions of seemingly well informed Gloucester officials, accepted as such by the American counsel, the state of things described by these Boston gentlemen in 1815 would have undergone a complete change, not progressively and in accordance with the laws of nature; but, on the contrary, the species and quantity of fish caught in our waters, and the number of vessels and men engaged in that business,

have gradually become more and more insignificant. The magnates of cod and mackerel from Gloucester and other ports, who had draped themselves in lofty statistics for the Centennial, have come here to explain once more that all is not gold that glitters. They took off their Centennial costume, as people do after a fancy ball; they humbled themselves to the last degree of mortification, contending that the gulf fisheries had reduced them to beggary, they having lost, some \$325, others only \$128 on every trip they had made there during scores of years in succession. People who do not know those hardy and courageous fishermen of Gloucester would hardly believe that some of them have gone through 170 trips consecutively without ever flinching in their Spartan stoicism, under an average loss of \$225 each trip! Who should wonder if, in their disgust of such an ungrateful acknowledgment, mackerel should have gone to distant zones where they could be better appreciated!

* Cool philosophers thought they were bound to reduce to nine the wonders of the world. They were mistaken. Here is that wonderful town of Gloucester, State of Massachusetts, in the United States of America, which has been built, and has grown up rich and prosperous, by accumulating losses and ruins upon former losses and ruins. The painful history of its disasters should be inscribed as the tenth wonder.

Fishing, no doubt, like all other industries, has its fluctuations of success and partial failure; but as it rests upon an inexhaustible supply to be found somewhere, it never can be said to be an absolute failure. It was only within a few years that experimental science was applied to fish. Science is diffident, as shown by Professor Baird; in fact, science teaches uncertainty and unbelief, because the more a man learns, the more he finds himself ignorant; the more he labors to know if what he thought to be one thing is not another thing. The witnesses from Gloucester are foremost in that school of philosophers who doubt of their own existence. Their town is already a myth; their families would have soon been the same; and, alas! themselves, if they had been too long before this Commission, would have to kick each other to know whether they were myths or living beings.

I will have a more fitting occasion for reviewing the evidence brought on behalf of the United States generally. For the moment the contrast was rather tempting—between what Americans of our days thought of our fisheries, and what their ancestors thought almost a century ago. I proceed now to show that the British claim has been proved.

Mr. DANA. That was as to the cod fishery.

Mr. DOUTRE. I think they have made very little difference.

Mr. DANA. Cod-fishing is prosperous now.

Mr. DOUTRE. It must not be forgotten, as one of our learned friends expressed himself in reference to other matters, they have now a point to carry. When Mr. Adams was collecting his information he had no point to carry, but simply to give a plain statement of facts. Those rich fisheries, which were spoken of in such glowing terms in 1815 have, it is asserted, declined to nothing, because we ask for their value. I never heard the matter more plainly and squarely laid down than it was yesterday, by my learned friend, Mr. Whiteway, when he said, "Now, that you possess these fisheries, how much would you ask for their surrender?" If we were to turn the tables, in this manner, we would see the Gloucester gentlemen coming here and describing the fisheries in Centennial colors.

Mr. DANA. Our testimony was all to the effect that the cod fishery is still profitable in Gloucester.

Mr. DOUTRE. I think at this hour we must understand the bearing of the testimony, or we will never do so. The fisheries in Maine have been completely destroyed, and no longer exist. I will read from the testimony on that point in a few moments.

The number of American vessels frequenting the British-American waters could not be estimated with any degree of precision. Witnesses could only speak of what they had seen, and but very few of them could, within a short time, go over all the fishing-grounds and make an estimate, even if they had gone round with that object in view. They had to trust to what they had heard from other parties, who about the same time had been in other portions of these waters, and by combining the knowledge acquired from others with their own they were able to give a statement of the number of vessels frequenting those waters.

Captain Fortin (p. 328 of British Evidence) states that in the Province of Quebec only, the extent of the coast on which the fisheries of Canada are conducted is about 1,000 miles; and Professor Hind (p. vii of his valuable paper) estimates the area of coastal waters conceded to the United States by the treaty to be about 11,900 square miles. Americans have been in the habit of fishing all around the Bay of Fundy and on the southeast coast of Nova Scotia, without counting the gulf; but the bulk of the American fleet entered the gulf, principally by the Gut of Canso, and also by going round Cape Breton, or by the Strait of Belle Isle, coming from Newfoundland. We have a mass of evidence that they were on all points at the same time and in large numbers.

Babson, 20th American affidavit, estimates the American fleet at 750 sail; Plumer, 22d American affidavit, estimates the American fleet at 700 sail; Pierce, 24th American affidavit, says from 700 to 800 sail; Gerring, 26th American affidavit, says 700 sail; Wonson, 30th American affidavit, says 700 sail; Embree, 167th American affidavit, says 700 to 800 sail; Grant, 186th American affidavit, says 700 sail.

Bradley, the first American witness examined before the Commission, in answer to the American counsel (p. 2):

Q. Give an approximate amount to the best of your judgment.—A. 600 or 700 certainly. I have been in the bay with 900 sail of American vessels, but the number rather diminished along the last years I went there. Everything tended to drive them out of the bay, cutters, and one thing and another, and finally I went fishing in our own waters and did a good deal better.

Graham (p. 106 of American Evidence) undertakes to contradict Bradley, but finally he has no better data than Bradley to guide himself, and after all his efforts he admits the number to have been 600 sail.

This was during the existence of the Reciprocity Treaty, and on this point, as well as on all others, it is to that period that we must refer to find analogy of circumstances.

The average catch of these vessels presents naturally a great diversity of appreciation, and on this, the causes which divided the witnesses are more numerous than those concerning the number of vessels. First the tonnage of the fishing-vessels, varying from 30 to 200 tons, must have regulated the catch more or less. When a vessel had a full cargo, she had to go home, even if fish had continued to swarm around her. Then the most favored spots could not admit of the whole fleet at the same time. They had to scatter over the whole fishing area with fluctuations of luck and mishap. We must add to this that many of the crews were composed of raw material, who had to obtain their education and could not bring very large fares. Some naturalists have expressed the opinion that fish are inexhaustible, and that no amount of fishing can ever affect the quantity in any manner. When it is

thought that one single cod carries from three to five millions of eggs for reproduction, one mackerel half a million, and one herring 30,000, as testified by Professor Baird, on pages 456 to 461 of the United States Evidence, there was some foundation for that opinion, but several causes have been admitted as diminishing and sometimes ruining altogether some species of fish. Predaceous fish, such as shark, horse-mackerel, dogfish, bluefish, and probably many others, have had both effects on some species. (See Professor Baird's evidence, at pages 462, 476, and 477.)

A more rapid mode of destruction has been universally recognized in the use of seines or purse-seines, by which immense quantities of fish of all kinds and sizes are taken at one time. By that means the mother fish is destroyed while loaded with eggs. Fish too young for consumption or for market are killed and thrown away. It is the universal opinion among fishermen that the inevitable effect of using purse-seines must eventually destroy the most abundant fisheries, and many American witnesses attribute the failure of the mackerel fishery on their own coast in 1877 to that cause. It is true that this theory is not accepted by Professor Baird, who, however has no decided opinion on the subject, and who has given the authority of a publication which he controls to the positive assertion that this mode of catching fish is most injurious. (Pp. 476, 477.)

When a vessel of sufficient tonnage is employed, that is from 40 tons upwards, the catch of mackerel has varied from 300 to 1,550 barrels in a season for each vessel.

Here is the evidence on the subject of mackerel:

Chiverie, British Evidence, p. 11, makes the average 450 barrels per vessel in a period of 27 years. Some years that average reached 700 barrels per vessel.

MacLean, p. 25, says the average has been 500 per vessel during the twenty years, from 1854 to 1874.

Campion, pp. 32, 34, 38, average for 1863, 650 barrels; 1864, from 600 to 700; 1865, over 670; 1877, some caught 300 barrels with seines, in one week. One vessel seined a school estimated at 1,000 barrels.

Poirier, p. 62, average catch 500 to 600 per vessel in one season.

Harbour, p. 79, average catch 500 per vessel in one season.

Sinnett, p. 84, average catch 500 per vessel in one season.

Grenier, p. 87, average catch 500 to 600 per vessel in one season.

McLeod, p. 98, average catch 500 per vessel in one season.

Mackenzie, p. 129, average catch of mackerel 700 barrels per vessel.

Grant, p. 182, average catch of mackerel 600 to 700 barrels per vessel.

Purcell, p. 197, average catch 250 per trip.

McGuire, p. 210, average catch of mackerel 600 per season.

Forty-four other witnesses, examined on behalf of the Crown, and cross-examined before the Commission, have stated the same fact. These statements are confirmed by the following American witnesses:

Bradley, American Evidence, p.	2,	600 barrels.
Stapleton,	"	p. 10, 600 "
Kemp,	"	p. 63, 600 to 700.
Freeman,	"	p. 75, 600 to 750.
Friend,	"	p. 119, 520.
Orne,	"	p. 127, 233 per trip = 466 per season.
Leighton,	"	p. 140, 361 " = 722 "
Riggs,	"	p. 156, 342 " = 684 "
Rowe,	"	p. 161, 246 " = 492 "
Ebitt,	"	p. 175, 375 " = 650 "
Cook,	"	p. 181, 280 " = 560 "
Smith,	"	p. 186, 274 " = 548 "

McInnis, American Evidence,	p. 191.	457	per trip	=	914	per season.
Garder,	"	p. 209,	240	"	=	480
Martin,	"	p. 211,	273	"	=	546
Turner,	"	p. 226,	270	"	=	540
Rowe,	"	p. 235,	259	"	=	518
Lakeman,	"	p. 325,	443	"	=	886

In order that any one may verify the correctness of this estimate for every witness, I may state that this is the process through which I arrived at it: I took the number of barrels caught in each trip by every witness, and divided the total by the number of trips. Some witnesses have made more than that average; others have made less. I abstain from taking the larger and the smaller catches; and, in this respect, I have followed a mode of estimating the matter which has been incorporated in our legislation. When, in 1854, seigniorial tenure was abolished in Lower Canada, indemnity was to be paid to the seigniors who conceded for *lots-et-ventes*; that is to say, a kind of penalty upon any sale or mutation of property which took place, consisting of one-twelfth of purchase money. There was no fine imposed on property being transmitted by inheritance, only in case of mutation by sale, or anything equivalent to a sale, such as exchange. Then to estimate the value of that right, which was so variable, because during some years there would be almost no mutations in a seignior, while during other years there would be many, a rule was adopted by which the income of the seignior from that source for 14 years was taken, the two highest and two lowest years struck out, and the 10 other years held to constitute an average, and the amount capitalized at 6 per cent. was to be paid. In that matter they were dealing with facts which could be found in the books of the seigniories; it was not based upon what my learned friend, Mr. Dana, has so well called the swimming basis; while here the calculation is certainly surrounded with much greater difficulty. Some of the fishermen have made only one trip in a year, but it was their own fault, as they could have made two and three. I have calculated on two trips a year only, although many have made three, and would have justified me in adding a third to the amount per season. I remained within that medium where the Latin proverb says that truth dwells. I have given the calculations for mackerel. Here is that for codfish:

Purcell, p. 198. Has known of 1,000, but does not state whether quintals or barrels.

Bigelow, p. 221. Spring cod-fisheries on Western and La Have Banks, summer and autumn fisheries on the Grand Bank. They make from six to twenty trips in a year, with fresh cod. No quantity stated.

Stapleton, p. 226. Caught 600 quintals within $2\frac{1}{2}$ miles of Prince Edward Island.

Baker, p. 269. Has seen 200 American vessels cod-fishing in one part, between Cape Gaspé and Bay Chaleur, each vessel catching 700 quintals.

Flynn, p. 270. 700 quintals per vessel, caught on Miscou and Orphan Banks, all the bait for which is caught inshore, and consist in mackerel and herring.

Lebrun, p. 289. 700 to 800 quintals, from Cape Chatte to Gaspé, per vessel.

Roy, p. 293. Has seen 250 to 300 American vessels cod-fishing.

John McDonald, p. 374. 600 quintals.

Sinnett, p. 85. 300 draughts or 600 quintals.

The following relates to herring:

Fox, customs officer: Brit. Evid., p. 114. 600,000 barrels entered outward since 1854; at least one-half of the vessels have failed to report. This is near Magdalens.

Purcell, p. 198. Fifty vessels fishing and catching each 1,000 barrels.

McLean, p. 235. In Bay of Fundy, 100 to 125 American vessels fishing for herring in winter, and catching 7 to 10 million herrings, which went to Eastport.

Lord, p. 245. From \$900,000 to \$1,000,000 worth of herring caught annually by Americans from Point Lepreaux, including West Isles, Campobello, and Grand Manan, Bay of Fundy.

McLaughlin, p. 254, 255, estimates at \$1,500,000 the annual catch of herring by Americans around the island and the mainland of Bay of Fundy.

Halibut, pollock, hake, haddock were caught by Americans all over Canadian waters, but in smaller quantity, and their separate mention here would take more time and space than the matter is worth. However, we will see what is said concerning these different kinds in the summary of evidence concerning the inshore fisheries.

In the discharge of my duty to my government I have thought proper to go over grounds which lay at the threshold of the question at issue; first, because the representatives of the United States Government had selected them as a fair field for surrounding that question with artificial clouds of prejudice and fictitious combination of facts and fancy; and in the second place, because I thought that the main question would be better understood if the path leading to it was paved with a substantial and truthful narration of the circumstances which had brought this Commission together.

The United States are bound to pay compensation, not for fishing generally in waters surrounded by British territory, but for being allowed to fish within a zone of three miles, to be measured at low-water mark from the coast or shores of that territory, and from the entrance of any of its bays, creeks, or harbors, always remembering that they had the right to fish all around Magdalen Islands and the coast of Labrador, without restriction as to distance. The functions of this Commission consist in determining the value of that inshore fisheries, as compared to a privilege of a similar character, granted by the United States to the subjects of Her Majesty, on some parts of the United States coasts, and then to inquire what appreciable benefit may result to the Canadians, from the admission of the produce of their fisheries in the United States, free of duty, in excess of a similar privilege granted to the United States citizens in Canada; and if such excess should be ascertained, then to apply it as a set-off against the excess of the grant made to the United States over that made to the subjects of Her Majesty.

As the learned Agent and counsel, representing the United States, have often criticised the acts of the colonists, when they constrained the Americans to execute the treaties and to obey the municipal laws, first of the separate provinces, and then of the Dominion, probably with the object of contrasting the liberality of their government with the illiberality of our own, I would like to ask which of the two governments went more open-handed in the framing of the fishery clauses of the Treaty of Washington? Did we restrict the operations of the Americans to any latitude or geographical point over any part of our waters? Not at all. We admitted them everywhere; while on their part they marked the 39th parallel of north latitude on one of their coasts, to wit, the eastern sea-coast or shores, as the herculean column beyond which we could not be admitted. The immediate and practical consequence was that we granted the liberty to fish over 11,900 miles of sea-coasts, where the

bulk of the fishing is located; and we were granted the right to fish over 3,500 miles of sea-coasts, where no fishing is done, of any consequence, by the Americans themselves, and where no British subject has ever been seen. (As to area, see Prof. Hind's paper, page VII.) In this instance the Americans cannot contrast the good will of the Imperial Government with the illiberality of the colonists, because the latter were represented in the Joint High Commission by their first minister, who assented to the treaty, and the Dominion Parliament, and the legislatures of Prince Edward Island, and of Newfoundland, equally assented, through solemn parliamentary acts.

In dealing with the value and extent of the North British-American coast fisheries, I think I may, with all safety, say, that in the waters surrounding the three-mile limits there is no deep-sea fisheries at all. The assertion may appear hazardous to our American friends, but I am sure they will agree with me when I remind them of the whole bearing of their own evidence. No doubt their witnesses have made use of the words deep-sea fisheries in contradistinction to the shore fisheries proper; but is there one of their witnesses who has ever pretended to have caught fish in any place other than banks, when it was not inshore?

The whole of the witnesses on both sides have testified that when they were not fishing inshore they were fishing around Magdalen Islands, which is another shore, on Orphan, Bradley, or Miscou, or other Banks; but as regards a deep-sea fishery in contradistinction to banks or shore fishery, there is no such thing in the whole evidence.

Sir ALEXANDER GALT. Are you now referring to the fisheries generally, or to the mackerel fishery in particular?

Mr. DOUTRE. To the cod fishery also. Codfish is taken on banks.

Mr. DANA. It is a question of names—what you call a bank fishery.

Mr. DOUTRE. Is not the result of the whole evidence, on both sides, that fish is to be found on the coast, within a few miles, or on banks, and nowhere else? This is the practical experience of all fishermen. Now, science explains why it is so. That class of evidence is unanimous on this most important particular, namely, as to the temperature necessary to the existence of the cold-water fish in commercial abundance, such as the cod and its tribe, the mackerel and the herring, which include all the fish valuable to our commerce. According to the evidence I shall quote, the increasing warmth of the coastal waters of the United States as summer advances, drives the fish off the coast south of New England into the deep sea, and puts a stop to the summer fishing for these fish on those parts of the coast in the United States—a condition of things due to the shoreward swing of the Gulf Stream there. On the other hand, it is stated that on the coasts of British America, where the Arctic current prevails, the fish come inshore during the summer months, and retire to the deep sea in the winter months.

Professor Baird says, on page 455 of his evidence before the Commission, speaking of the codfish in answer to the question put by Mr. Dana, "What do you say of their migrations?"

Answer. The cod is a fish the migrations of which cannot be followed readily, because it is a deep-sea fish and does not show on the surface, as the mackerel and herring; but so far as we can ascertain, there is a partial migration, at least some of the fish don't seem to remain in the same localities the year round. They change their situation in search of food, or in consequence of the variations in the temperature, the percentage of salt in the water, or some other cause. In the south of New England, south of Cape Cod, the fishing is largely off shore. That is to say, the fish are all the coast in the cooler water in the summer, and as the temperature falls approaching autumn, and the shores are cooled down to a certain degree, they come in and are taken within a few miles of the coast. In the northern waters, as far as I can understand from the writings of Professor Hind, the fish generally go off shore in the winter time, excepting on the south side of Newfoundland, where, I am in-

formed, they maintain their stay, or else come in in large numbers; but in the Bay of Fundy, on the coast of Maine, and still farther north, they don't remain as close to the shore in winter as in other seasons.

You will observe that Professor Baird limits his statement that the warm water in summer drives the fish off the coasts of the United States to the south of New England only. The water appears to be cold enough for them on the coast of Maine in summer to permit of their coming inshore. But now let us see what he says of the condition of the fisheries there. In his official report for 1872 and 1873, the following remarkable statement is to be found:

Whatever may be the importance of increasing the supply of salmon, it is trifling compared with the restoration of our *exhausted* cod fisheries; and should these be brought back to their original condition, we shall find within a short time an increase of wealth on our shores, the amount of which it would be difficult to calculate. Not only would the general prosperity of the adjacent States be enhanced, but in the increased number of vessels built, in the larger number of men induced to devote themselves to maritime pursuits, and in the general stimulus to everything connected with the business of the seafaring profession, we should be recovering in a great measure from that loss which has been the source of so much lamentation to political economists and well-wishers of the country.—(*Page XIV, Report of Commissioner of Fish and Fisheries, 1872-'73.*)

It thus appears from the testimony of Professor Baird, that the cod are driven off the shores of the United States south of New England by the increase of temperature in the summer months, and on the New England and Maine shores the cod fisheries are exhausted. The only conclusions that can be drawn from these facts are that the sole dependence of the United States fishermen for cod, which is the most important commercial sea fish, is, with the single exception of George's Shoals, altogether in waters off the British American coast line.

Professor Hind says in relation to this subject and in answer to the questions—

What about the cod? Is it a fish that requires a low temperature?—A. With regard to the spawning of cod, it always seeks the coldest water wherever ice is not present. In all the spawning grounds from the Strait of Belle Isle down to Massachusetts Bay—and they are very numerous indeed—they spawn during almost all seasons of the year, and always in those localities where the water is coldest, verging on the freezing point. That is the freezing point of fresh water, not of salt, because there is a vast difference between the two.

The cause of the spawning of the cod and the mackerel at certain points on the United States coasts is thus stated by the same witness:

Q. Now take the American coast; show the Commission where the cold water strikes.—A. According to Professor Baird's reports there are three notable points where the Arctic current impinges upon the banks and shoals within the limits of the United States waters and where the cod and mackerel spawning grounds are found. If you will bear in mind the large map we had a short time ago, there were four spots marked on that map as indicating spawning grounds for mackerel. If you will lay down upon the chart those points which Professor Verrill has established as localities where the Arctic current is brought up, you will find that they exactly coincide. One spot is the George's Shoals.

So dependent is the cod upon cold waters for its existence that Professor Baird tells, in reply to the question put by Mr. Thomson, "Could cod, from your knowledge, live in the waters which are frequented by the mullet?" "No; neither could the mullet live in the waters which are frequented by the cod (p. 471). Now, in another portion of his evidence Professor Baird says, (p. 416) that "the mullet is quite abundant at some seasons on the south side of New England"; and thus we have in a different manner explained the reason why the cod cannot live in summer on the shores of the United States south of Cape Cod, on account of the water being too warm, and the evidence of the witness is confirmed by the following evidence of Professor Hind.

Q. Are those three fishing localities on the American coast, Block Island, George's Bank, and Stellwagen's Bank, in Massachusetts Bay, affected every year, and, if so, in what

way, by the action of the Gulf Stream?—A. The whole of the coast of the United States south of Cape Cod is affected by the Gulf Stream during the summer season. At Stonington the temperature is so warm, even in June, that the cod and haddock cannot remain there. They are all driven off by this warm influx of the summer flow of the Gulf Stream. The same observation applies to certain portions of the New England coast.—(Rebuttal Evidence, p. 3.)

The testimony of these two scientific witnesses then agrees completely with reference to the important question of temperature. We all know of the enormous fleet annually sent by the Americans to the Grand Banks of Newfoundland, the Nova Scotia Banks, and the various Banks in the Gulf of St. Lawrence. With the exception of the comparatively small quantity of cod taken on the United States coasts in spring and fall, and on George's Shoals, the greater part of the \$4,831,000 worth of the cod tribe, which the tables put in by Professor Baird show us to be the catch of last year of United States fishermen, must necessarily have been taken in British-American waters, or off British-American coasts, for there are no other waters in which Americans take this fish.

Turning now to the mackerel, we shall find that the same prevailing influence, namely, that of temperature, actually defines the spawning area and limits the feeding grounds of this fish.

Col. Benjamin F. Cook, inspector of customs, Gloucester, tells the Commission that this very year, "in the spring, out south, there was a large amount of mackerel, and late this fall, when we were coming from home recently, the mackerel had appeared in large quantities from Mount Desert down to Block Island; but during the middle of summer they seem to have sunk or disappeared" (p. 182).

In the portion of Professor Hind's testimony, just quoted, the cause of the mackerel seeking three or four points only on the United States coasts to spawn in the spring is given, which is, that there the Arctic current impinges on the coast line. Cold water is then brought to the surface, and as both the eggs of the cod and of the mackerel float, the low condition of temperature required is produced there by this northern current. This question of the floating of the eggs of the cod and of the mackerel is very important, for when the time of spawning is considered, it shows from the testimony of both witnesses that the coldest months in the year are selected by the cod in United States waters; and the mackerel spawn only when the Arctic current or its offset insures the requisite degree of cold. The same peculiarity, according to Professor Baird, holds good with regard to the herring. This condition of extreme low temperature, necessary for the three commercial fishes, so limits the area of suitable waters off the coast of the United States that the American fishermen are compelled to come to British American coasts for their supply of these fish, whether for food or for bait.

All the American witnesses concur in the statement that the cod fishery is the most profitable, and there is an equal concurrence of statement that the cod fishery is erroneously styled an off-shore, or so-called deep-sea fishery.

I call attention to the cod fishery as pursued by the great Jersey houses, wholly in small open boats, and almost always within three miles from the shore; to the cod fishery pursued on the Labrador coast, wholly inshore; on the whole extent of Newfoundland, except a small portion of the western coast, also wholly inshore; to the cod fisheries pursued in the deep bays and among the islands of Nova Scotia, on the north shore of the St. Lawrence, on the northern coast of Cape Breton, quite close to the shore.

That leads me, by a natural connection, to banks and shoals, for it

has been shown that these bring the cold water of the Arctic current to the surface by obstructing its passage. The underlying cold current rises over the banks and pushes the warmer water on each side. All our testimony goes to prove that the mackerel are almost altogether taken on shores, banks, and shoals where the water is cold. An-offshore bank is a submarine elevation—a hill-top in the sea—and the temperature here is cold, because the Arctic current or cold underlying strata of water rises over the banks with the daily flow of the tides. (Professor Hind's paper, p. 97.) This is the fisherman's ground, both for cod at some seasons, and for mackerel at all seasons. But what of a shelving or sloping coast two or three miles out to sea, exposed to the full sweep of the tides? Is not that also practically one side of a bank, over which the flood tide brings the cold underlying waters, and mixes them with the warm surface waters, producing in such localities the required temperature? Looking at the chart of Prince Edward Island, the Magdalen Islands, and the estuary of the St. Lawrence, there is no part of the Magdalen Islands, where the Americans fish within the three-mile limits, where water is so deep as within the three-mile limit on Prince Edward Island and east of Rustico, and covering fully one-half the mackerel ground there. The depth of water between two and three miles from the coast is shown on the admiralty chart to vary there from 9 to 13 fathoms within those limits, or 54 and 78 feet—enough to float the largest man-of-war and leave 25 to 40 feet beneath her keel. It will be remembered that in one of the extracts I have read the depth of water where fish are taken is given at from five to eight fathoms. And yet we have been constantly assured that there is not water enough for inshore mackerel-fishing in vessels drawing 13 feet water at the utmost. Besides all this, we have the testimony so frequently advanced from fishermen on the shores of Prince Edward Island, that the American fishermen were a source of alarm and injury to them on account of their lee-bowing their boats. This proves two important facts: first, that the American fishermen did and do constantly come within the three-mile limit to fish for mackerel, and they come in with their vessels because the fish is there.

Having given the reason why these cold water species of fish, according to a law of nature, must be found quite close inshore, I will now proceed to show that the facts put in evidence fully sustain science.

I shall first direct the attention of your honors to the special facts connected with the fishing operations pursued on the coasts of the estuary of the St. Lawrence, and the Gulf of St. Lawrence, from Cape Chatte to Gaspé, and Cape Despair, on the south side, and from Point Des Monts, on the north side of the estuary, to Seven Islands, thence to Mingan, thence to Natashquan, an immense stretch of coast line.

The witnesses from the Province of Quebec have more to say about cod, bait, halibut, and herring than about mackerel.

Mr. P. T. Lamontaigne testifies, in reply to Mr. Thomson, as follows:

Q. Take from Cape Chatte to Gaspé, along the south shore, what is the average annual export each year of fish; I refer to codfish and linefish?—A. From my place down to Cape Gaspé there will be 25,000 quintals, at least, of dry fish exported.

Q. Taking the whole Gaspé shore, what would you say?—A. I should think not less than from 180,000 to 200,000 quintals of dried fish.

Q. What is the value per quintal previous to exportation?—A. They should not be worth less than \$5 per quintal.

Q. How are these fish taken, by vessels or by boats?—A. By boats.

Q. Are they taken with hook and line?—A. Yes. What we take on our coasts are all taken with boats and with hook and line.

Q. Have you any halibut on your coast?—A. Not at present.

Q. What is the reason?—A. We attribute it to the Americans fishing for halibut on our coast.

Q. What time do they fish?—A. About August.

Q. What years did they come there?—A. From 1856 to 1866 and 1870, as near as I can remember.

Q. In 1866 the Reciprocity Treaty came to an end; did the Americans fish for halibut there in 1870?—A. I could not say exactly the year, but I am sure they fished there.

Q. Did they fish after the abrogation of the Reciprocity Treaty in 1866?—A. The Americans did fish there.

Q. Was halibut taken within two miles of the shore?—A. Near the shore.

Q. The Americans came in after the Reciprocity Treaty was abrogated, did they?—A. I believe they did.

Q. And they cleaned out the halibut?—A. Fishermen all agree in saying that they took away all the halibut on our coast.

While we are speaking of the halibut, I must remind the members of the Commission of the strenuous efforts made by the American counsel and witnesses to impress them with the notion that halibut was extinct all over the Bay of St. Lawrence, and that the Americans never fished for codfish in the gulf anywhere. We are not left here to select between conflicting testimony. We have judicial authority to strengthen our assertions. I will extract from a report filed in the case, four seizures of vessels caught in the act of fishing halibut and cod within the three-mile limit:

Lizzie A. Tarr, 63 tons, Messrs. Tarr Bros., owners, Gloucester, Mass., U. S., seized 27th August, 1870, by N. Lavoie, schooner *La Canadienne*, about 350 yards from the shore in Saint Margaret's Bay, north shore of Gulf of Saint Lawrence, Province of Quebec. Anchored at west point of Saint Margaret's Bay, near Seven Islands, Saint Lawrence coast, west of Mount Joly, about 350 yards from the shore. Five fishing-boats were alongside the vessel, crew having just returned from tending their lines, which were set between the vessel and the main land. Six halibuts were found on the lines. Master admitted that the owner of vessel had directed him to go and fish there, as the government cutter was seldom seen in these places, and some of the crew stated that if they had good spy-glass they would not have been caught. Tried in vice-admiralty court at Quebec. Vessel condemned. Defended. Sold for \$2,801; money paid to credit of receiver-general, after deducting costs and charges.

Samuel Gilbert, 51 tons, Richard Hanan, master, Gloucester, Mass., U. S., seized 24th July, 1871, by N. Lavoie, schooner *La Canadienne*, about two miles N. W. by W. from Perouquet Island, near Mingan, on the north coast of the Gulf of St. Lawrence. At the time of capture, schooner was taking fresh codfish on board from one of her flats alongside. Two of her boats were actively fishing at a distance of 450 yards from shore, and men on board were in the act of hauling in their lines with fish caught on their hooks. When seized, boats were half-full of freshly-caught codfish, and had also on board fishing-gear used for cod-fishing. Owner admitted having fished, but pleaded as an excuse that he was under the impression that the provisions of the Washington Treaty were in operation. Tried in the admiralty court at Quebec. Vessel condemned. Vessel released for costs.

Enola C., 66 tons, Richard Cunningham, master, Gloucester, Mass., U. S., seized 29th May, 1872, by L. H. Lachance, schooner *Stella Maria*, less than two miles from the shore in Trinity Bay, north shore of Gulf of St. Lawrence, Province of Quebec. Actively fishing at time of capture; had been fishing all day with trawl nets set from 50 to 600 yards from shore, and extending 5 or 6 miles along the coast between Point Des Monts and Trinity Bay. When captured, vessel was becalmed inside of two miles of Trinity Bay; had on deck two fresh-caught halibuts, and two of her men were at the time engaged raising trawls set close in Trinity Bay. On their coming alongside of vessel, it was ascertained they had two halibuts in their boat. Master admitted having committed the offense, but begged hard to be let off, on account of this being his first offense. Had been warned, before coming to Trinity Bay, not to fish within limits. At time of seizure vessel had on board a cargo of about 2,000 pounds of halibut and salt. Sureties discharged.

James Bliss, 62 tons, Allan McIsaacs, master, Gloucester, Mass., U. S., seized 18th June, 1872, by L. H. Lachance, schooner *Stella Maria*, within $1\frac{1}{2}$ miles of the east end of Anticosti Island, in the Gulf of St. Lawrence, Province of Quebec. At time of capture was anchored within $1\frac{1}{2}$ miles from the shore, between Point Cormorant and the east end of Anticosti Island. Actually fishing for halibut with five trawl nets set around the vessel, between 50 yards and $1\frac{1}{2}$ miles from the shore, and had been fishing there for three days previous. Master acknowledged the offense, and stated that he had been warned by his owners not to expose their vessel. Sureties discharged.

Dr. Pierre Fortin, M. P. P., testified before the Commission as to the large number of British establishments engaged in the cod fisheries on

the south shore of the river St. Lawrence, to the head of Baie des Chaleurs, and on the north shore of the river and Gulf of St. Lawrence. Dr. Fortin, examined by myself, testified as follows:

Q. All those establishments deal exclusively in cod?—A. Yes, their principal business is codfish. Sometimes herring and mackerel are dealt in, but not much. The principal is codfish.

Q. Do any of those establishments resort to Newfoundland for cod?—A. No. Not at all; never.

Q. Well, where is all their cod caught?—A. *On the shore and from boats.*

Q. Is all the cod they deal in caught in Quebec waters?—A. Yes.

Q. With boats?—A. Yes, and they fish from the shore.

Q. What kind of boats? Open boats?—A. Fishing-boats manned by two men.

Q. Name the banks and their extent, which exist in these waters.—A. On the north shore I know of only two banks of small extent—St. John or Mingan and Natashquan.

Q. St. John and Mingan are the same thing?—A. Yes, the same bank. Six or seven miles from the shore.

Q. Of what length is it?—A. They lie six or seven miles from the shore, but they merge into the shoal fisheries. They are not distinct from the shoal fisheries. They are seven or eight miles in length.

Q. What is the length of the Natashquan?—A. It is about ten miles in length. These are all the banks on the north side.

Q. Now, on the south side?—A. Well, from Matane to Cape Gaspé, in what is called the river St. Lawrence, there are no banks. The fishing is all carried on within three miles, and sometimes within two miles. Then there are two banks opposite the shore of Gaspé and Bay Chaleur. There is a bank called Point St. Peter's Bank, which is very small, ten miles out. It is a very small bank, three or four miles in extent. Then there is Bank Miscou, or Orphan, a bank lying off the coast of Miscou; also off the coast of Gaspé or Bay Chaleur, a distance of about twenty miles—fifteen or twenty miles.

Q. Now, taking into account these banks, could you state how far from the shore, or, rather, could you state what proportion of the whole quantity of cod taken is caught within three miles?—A. Taking into account that only our people that are settled in St. John's River, and a place called Long Point, visit this Mingan or St. John Bank, also that but few fishermen from Natashquan go on the bank, that is of our own fishermen, and taking into account that our fishermen generally go on the bank only in two or three places, I should think that more than three-fourths, I should say eighty per cent., or up to eighty-five per cent. of the codfish taken by Canadian fishermen are taken inside of British waters.

As to bait for the halibut fishery, Dr. Fortin said:

Q. What is the bait used for halibut?—A. Herring and codfish. Codfish is as good as any. It is firmer than herring, and holds well on the hook. They put a large bait on, so that the small codfish cannot take the bait, because the object of the halibut fishers is to take nothing but halibut. When they take codfish, they have to throw it overboard.

Q. And as codfish, as well as herring, are taken inshore, they have to come inshore?—A. Yes, they come in close to the shore for halibut.

And, with respect to codfish, Dr. Fortin continues:

Q. Well, what bait is used for codfish?—A. The bait they use are caplin, launce, herring, mackerel, smelt, squid, clam, trout, and chub.

Q. Where do they generally keep?—A. Near the shore. The caplin and launce fish are on the shore, rolling on the beach sometimes, and our fishermen catch many of those with dip-nets, without using seines. Herring are caught also near the shore with nets.

Q. Well, can the codfishery be carried on advantageously otherwise than with fresh bait?—A. No, no. Salt bait is used sometimes, when no other can be had, but it cannot be used profitably.

Q. Is there any means of keeping bait fresh for some time?—A. Well, some of our large establishments which have ice-houses have tried to keep the bait they use in a fresh state as long as they could, but they have not succeeded well. They may from half a day to a day in warm weather perhaps.

Q. With ice?—A. Yes, because the herring, for instance, may be fit to eat, but not for bait.

Q. Why?—A. Because the bait they use must be fresh enough to stick on the hook. If it is not very fresh it does not stick on, and it will not catch the codfish, because the codfish will take the bait off the hook, and leave the hook.

Q. You say it can only be kept half a day, or a day?—A. It may be kept perhaps a day or two. It depends upon the weather.

Q. Well, would it be possible for the Americans coming there to fish for cod to bring their bait with them in a fresh state?—A. No, it is impossible.

Q. They could only bring salt bait, which is not much used?—A. That is all.

Mr. John Short, M. P. for Gaspé, examined by Mr. Davies, gave evidence as follows :

Q. Can you give the Commission an estimate of the quantity of fish taken by our fishermen annually along the coast ?—A. From Mount Cape Chatte to New Richmond the catch would be about 100,000 quintals.

Q. Where is New Richmond ?—A. On Bay Chaleurs. There is Anticosti and the north shore of the St. Lawrence, from Joli northwestward, which will give 100,000 quintals, making together 200,000 quintals.

Q. The north shore of the St. Lawrence and Anticosti will give 100,000 quintals ?—A. Yes, with the Magdalen Islands.

Q. What kind of fish is taken ?—A. Codfish chiefly ; herring is the next catch in quantity and importance.

Q. You don't fish mackerel to any extent ?—A. No.

Q. You don't go into it for the purpose of trade ?—A. No ; we find the codfish more remunerative.

Q. What is the value of those 200,000 quintals of fish ?—A. The coast value is about \$5 per quintal, which would give a value of \$1,000,000. The market value is higher ; it ranges from \$5 to \$8 per quintal.

Q. How far are those fish taken from shore by the fishermen, take the north shore ?—A. Principally, and nearly altogether, inshore.

Q. Now take the south shore ?—A. From Cape Chatte to Cape Gaspé they are all taken inshore, and from Cape Gaspé to New Richmond the greater portion is taken inshore ; some are taken on Banks.

Q. Where do the American cod-fishermen get their bait ?—A. They get a great quantity from the inshore fishery.

Q. Have you seen them catch bait ?—A. I have seen them set nets, but not take them up.

Q. Have you any doubt that they do catch bait ?—A. I have not. They often draw seines to shore for caplin and small bait.

Q. Could the Americans carry on the deep-sea cod-fishery without that bait ?—A. Not with success.

Q. You are quite sure about that ?—A. Yes ; I have no hesitation in saying it could not be carried on.

Mr. Josef O. Sirois tells the Commission, in his examination by myself :

I am a merchant at Grande Riviere, county of Gaspé. I have employed men to fish for me round my neighborhood. I have fished on the south side of the river St. Lawrence, from Paspebiac to Cape Gaspé, a distance of about 90 miles. My fishing was done with small boats, each having two men ; I generally have six of such boats employed fishing. I have carried on this kind of business during the last twenty years. It is cod we take on that coast. Cod is slightly more abundant than it was twenty years ago ; it may be that each boat takes less, but the number of boats has considerably increased during that period. Part of the cod is taken along the coast, and the remainder on Miscou Bank. Cod is taken from one to two miles from the coast. They take about half their catch on the coast within the distance mentioned, and the remaining half on Miscou Bank. They take cod with bait, consisting of caplin, herring, squid, smelt, and mackerel. The bait is obtained at from a quarter of a mile to two miles from the coast ; it is very rare the fishermen would have to go out as far as three miles to take bait. American fishermen could not bring fresh bait from their homes. It cannot be kept with ice to be used advantageously for more than two days. The effect of placing bait on ice is to soften it so that it will not hold on the hooks. I have seen a number of American schooners fishing mackerel on the coast.

Mr. Louis Roy, of Cape Chatte, testified to the Commission, in reply to myself, as follows :

Q. What part of the coast of the river St. Lawrence are you acquainted with ?—A. From Cape Chatte to Cape Gaspé.

Q. What is the distance between those points ?—A. About 140 miles.

Q. That is on the south coast ?—A. Yes.

Q. Do you know anything of the north coast ?—A. I have some knowledge of the north coast, but am not so familiar with it as with the south coast.

Q. What extent of coast on the north side do you know ?—A. About 160.

Q. That would make a length of three hundred miles of the river coast, that you are acquainted with ?—A. Yes.

Q. Is it to your knowledge that the Americans have been fishing on that part of the river St. Lawrence ?—A. O, yes ; they have fished near my place very often.

Q. When did they begin to fish on that part of the river ?—A. About 1854.

Q. The time of the Reciprocity Treaty ?—A. Yes.

Q. Until then you had never seen much of them ?—A. O, yes. I saw many during the ten years previous to that.

Q. But they came in large numbers after that date?—A. Yes; they came in large numbers for about six or seven years. But after that they came in less numbers.

Q. You mean during the last years?—A. Yes.

Q. At the time they were frequenting that part of the river, how many sail have you any knowledge of as visiting the coast?—A. From Cape Gaspé to Cape Chatte?

Q. Yes, on the north shore also?—A. About 260 or 300 sails.

Q. Schooners?—A. Yes.

Q. What was the general tonnage?—A. About 70 or 80 tons.

Q. That is the average?—A. Yes; there would be some 50 tons and some 120.

Q. You say that many visited during one season?—A. From spring to fall; O, yes.

Q. After the Treaty of Reciprocity?—A. Not so much.

Q. You mean not so much after the treaty was terminated?—A. Yes.

Q. But during its existence?—A. Well, about the number I have stated.

Q. Were they fishing for fish to trade with?—A. Yes.

Q. What kind of fish was it?—A. Cod.

Q. Where was the cod caught?—A. Do you mean what distance from the shore?

Q. Yes.—A. Within three miles.

Q. Well, out of these 300 miles you have spoken of, where could cod be fished for out off the coast?—A. Well, for about 15 or 20 miles off the north shore. On the south shore there are none at all outside. You can't catch off beyond three miles on the south shore.

Q. Where are those 15 or 20 miles?—A. From Mingan.

Q. Have you any knowledge of the catch that one of those schooners would take; neither the largest nor the smallest? Take an average.—A. About between 500 or 600 barrels, each vessel.

Q. For the whole season?—A. Yes; because some of them made two trips and some three.

Q. Well, then they would not take 500 or 600 barrels each trip?—A. No, no; I mean for the whole season.

Q. Is the cod as abundant now as it was 30 or 40 years ago? Do you get as much?—A. O, yes; as much as 30 or 40 years ago. I am sure of it.

Q. Have you any idea what quantity of fish is taken by the Canadians in that part of the river?—A. O, yes; I have a memorandum here. I calculate that the catch of codfish from Cape Chatte to Cape Gaspé, along the coast, is about 220,000 quintals of dry fish, valued at \$4.50 a quintal.

Q. Do you know if much of that is exported to the United States?—A. Not at all; not any.

Q. Now, as to the mackerel. Is that the fish for which the Americans were fishing on that part of the river?—A. Yes.

Q. Where is the mackerel taken generally?—A. It is within three miles, because always the fat mackerel is inside of a mile—close by.

Q. Well, from the knowledge you have of the locality, do you think you would see any American schooners if they were prevented from fishing within three miles of the shore?—A. No.

Q. Would it be profitable for them?—A. They cannot do it. They would not come because they would not catch enough to pay expenses.

Mr. James Jessop, of Gaspé, examined by Mr. Weatherbe, testifies as follows:

Q. As a matter of fact, where do they get most of the bait, on the shores or on the Banks?—A. More inshore than on the Banks.

Q. Do the Americans come inshore constantly for bait?—A. They may not come on our shores, but on other shores they do. Most of them go to Shippagan, which is a great place for fishing herring. The herring come in from the Banks of Shippegan; the Americans catch them and also follow them inshore.

Q. The Americans come from the Banks on purpose to catch bait?—A. Yes; and when they go out of the bay they get fresh bait when the herring school is passing out.

Q. How long does fresh bait last?—A. It will only keep fresh one day.

Q. That is when there is no ice on board to preserve it?—A. Yes.

Q. Where there is ice, how long will the bait keep fresh?—A. Two or three days.

Q. From Cape Chatte to Cape Gaspé, how far from the shore did the Americans fish?—A. From Cape Chatte to Cape Gaspé the Americans came in along the shore. I never fished there. I have passed up and down and seen American vessels fishing for mackerel right along the shore.

Q. Did you see or hear of Americans fishing for mackerel outside of three miles from shore?—A. No; all within one mile, one mile and a half, and two miles of the shore.

Q. Did you ever hear of any fishing outside three miles?—A. Not on that coast.

Q. On the north side of Bay Chaleurs where are mackerel found?—A. The great body of mackerel is along the shore. A few may be caught outside in deep water, but the mackerel make into the shore and come after small bait.

Q. Where are most of the mackerel caught?—A. Handy to the shore; sometimes a mile and a half out. Sometimes not five acres out.

Q. Do you know from the Americans themselves whether they catch the greater part of the mackerel inshore?—A. Yes. The vessel I was on board fished inshore with boats. The vessel was at anchor in Newport harbor.

Q. How far from the land?—A. About 300 yards.

Q. Did you catch all the fish there?—A. There were no fish in the harbor; we caught them in a cove called Carnaval.

Q. How far from the shore?—A. About two cables length. We got 100 barrels one day.

Q. Did you catch your fish far from the shore?—A. The farthest we caught might be half a mile off.

Q. How many did you catch?—A. I could not say exactly, but we pretty nearly loaded her. I left her, and she afterwards left to transship her cargo.

Q. Do the Americans fish along your shores for cod?—A. They do.

Q. Within three miles from shore?—A. Yes.

Q. To any extent?—A. They don't fish codfish to any great extent within three miles from shore.

Q. Where do they fish for cod?—A. On Miscou Bank and Bank Orphan.

Q. What is the number of the fleet engaged in fishing on Miscou Bank alone?—A. I have heard my men say from 40 to 50 sail.

Q. You would put the average at 40 sail?—A. Yes.

Q. Do you know what is the number of the cod-fishing fleet in the bay on an average each year?—A. From 300 to 400 vessels.

Q. Nearer 400 than 300?—A. About 400.

Q. Where do these cod-fishermen get the bait they use?—A. A great deal of it inshore, along our coast.

Q. How do they get it?—A. By setting nets inshore, and sometimes by buying it.

Q. What kind of fish do they catch for bait?—A. Herring. I have seen them seining herring. I have heard that they jig squid and bob mackerel.

Q. They catch caplin?—A. Yes.

Mr. Joseph Couteau, of Cape Despair, examined by myself, gives the following evidence:

I am 42 years of age. I live at Cape Despair, in the county of Gaspé. I am a fisherman, and at present employ men in the fishing business. This fishery is carried on along the coast from one to three miles from the shore, and also on Miscou Bank. The Americans fish there. I have seen as many as 40 sail fishing there at the same time. The Americans procure their bait along and near the coast. The bait consists of herring, caplin, and squid. The cod-fishery cannot be prosecuted to advantage with salt bait. The Americans cannot bring with them to Miscou Bank a sufficient supply of bait. In 1857 I fished in an American schooner called the Maria. I do not remember her captain's name. The schooner was fitted out at and started from Portland. During the first three months of the voyage, we fished for cod along Cape Breton, the Magdalen Islands, and Miscou Bank. At Cape Breton we took the cod at distances of from a mile to a mile and a half from the shore. We fished at about the same distance from the shore at the Magdalen Islands. We took 330 quintals of cod. We caught about three-quarters of our load within three miles of the coast off Cape Breton and the Magdalen Islands and the remainder at Miscou Bank. We procured our bait on the Cape Breton shore.

Mr. Abraham Lebrun, of Perce, examined by Mr. Weatherbe, tells the Commission where the Americans procure their bait:

Q. Where do they procure their bait?—A. The generality of them procure it on the coast.

Q. How do they get it?—A. In nets. They take herring in nets.

Q. And what else?—A. Squid; they also seine caplin on our coast.

Q. Where do they get their nets with which they catch it?—A. They bring them with them.

Q. Where did they get the bait after the abrogation of the Reciprocity Treaty?—A. They run the risk of capture to obtain it within three-miles limit.

Q. Year after year?—A. Yes.

Q. How do you know that?—A. I have seen them do so.

The witness is then asked about halibut:

Q. Halibut are caught along the north shore of the river St. Lawrence for the distance of 150 miles, to which you have referred?—A. Yes.

Q. And they are taken on the coast of Anticosti, and along the south coast, and along the other coasts, on the south side of the St. Lawrence, which you have mentioned?—A. Yes, sir; from Cape Chatte to Cape Gaspé; this is a celebrated coast for halibut.

Q. Are halibut caught on the shores of Gaspé and the Bay of Chaleurs?—A. They are or have been caught there.

Q. By whom is the halibut fishery carried on?—A. Chiefly by the Americans.

Q. And how are they caught?—A. With trawls.

Q. What effect has their mode of fishing had on the coast as a halibut-fishery ground?—

A. With regard to halibut, it has injured the fishery.

Q. By what means?—A. By overfishing. Halibut is a fish which does not reproduce itself like the cod, and of course the fishing is thus affected and injured.

Q. By whom has this overfishing been done?—A. By the Americans.

Q. During how many years?—A. It has been the case as long as I can remember; that is, from 1856 to the time when I left the north shore, in 1873. They have frequented the coast from year to year.

Q. Is the halibut fishery carried on now on the south shore?—A. At present halibut are very scarce there, but formerly they were very plentiful on this coast.

Mr. John Holliday, who pursues the fishing business on an extensive scale at the mouth of the Moisie River, testified, in his examination by Mr. Thomson, as follows:

Q. Well, do you take no halibut or hake?—A. We take a few halibut, not of any great moment, this year past.

Q. Why is that? It used to be plenty.—A. They used to be, but since 1868 or 1869 the coast is nearly cleaned of halibut by the American fishermen coming there. Two of them were taken in my neighborhood; that is, two of their vessels were taken by the cruisers.

Q. What became of them?—A. I think they were both condemned.

Q. Well, were those halibut taken within three miles of the shore?—A. O, yes; within about a mile and a half of the shore.

Q. There was no doubt, then, about the fact of the infringement of the law, for which those vessels were taken?—A. I have seen several of them leave the coast and leave their lines. When they saw the cruisers come they stood out to sea, and came back a day or two afterward and picked up their lines.

Q. That was within three miles?—A. Yes.

Q. How near?—A. About a mile and a half.

Q. I do not know whether the atmosphere there is of that peculiar character that a vessel within half a mile will think she is three miles out?—A. They could not well think that.

Q. You can generally tell when you are within three miles?—A. Yes; at all events within a mile and a half.

Q. Well, you say that in 1868 and 1869 the American schooners came there and fished out the halibut?—A. Yes; they cleaned them out.

Q. What kind of fishing was it?—A. With long lines or trawls.

Q. There were a great many hooks upon them?—A. A great number; there were several miles of them.

Q. What was the effect of that, either to your own knowledge or from what you have heard?—A. The whole of our inshore fishermen fished codfish and halibut. We get none now, or next to none.

Q. No halibut, you mean?—A. No halibut.

Q. Are they a fish that keep pretty close to the bottom, as a rule?—A. Yes.

Q. Therefore they are the more liable to be taken up by the trawl?—A. That is the method adopted in this country of catching them, altogether.

Q. Before the Americans came with a trawl, how did your people take them?—A. With hand-lines.

Q. Were they reasonably plenty in those days?—A. Yes; a boat has got from eight to ten. Now they very seldom get any.

Q. Well, had the hand-line fishing been continued, and those trawls not introduced, is it or is it not your opinion that the halibut would be now there just as it used to be?—A. I think it would be as good as previously.

Q. In your opinion, then, this trawl-fishing is simply destructive?—A. To halibut.

SATURDAY, November 17, 1877.

The Conference met.

Mr. Doutre continued his argument in support of the case of Her Majesty's Government, as follows:

May it please your Excellency and your Honors:

When we separated yesterday, I demanded and obtained an adjournment until Monday, as I considered I required that time to lay before

the Commission the matter in issue, in its different aspects; and I am still of opinion that I would have fulfilled my duty in a more complete manner if the arrangement of yesterday had been adhered to. However, a very pressing demand was made upon me to meet this afternoon, in order to close my part of the argument, and leave the way free and clear for my successor on Monday. With a strong desire to comply with the demand from gentlemen with whom I have been acting so cordially so far, and with whom I hope to act cordially up to the time of our separation, I made an effort to be able to present myself before the Commission at this hour. However, I shall have to deal, I fear, in a very ineffectual manner with the matters that remain to be considered. I have taken particular care in arranging the evidence and argument, not entirely for the reason that your honors required any information from me to form your opinion; I think after this long investigation the minds of your honors must be pretty well made up, and could not be much altered and influenced by any remarks I could offer. But we must not forget that this treaty is a temporary arrangement, which will be the object of fresh negotiations within a pretty short period, and I considered that those who will have to deal with the question five, six, or eight years hence will be unable readily to discover, in this mass of evidence, what part has a bearing upon one branch of the case, and what part upon another branch; and I thought it would be useful, if not for the present moment, for the future, to make a complete investigation of the evidence, and to place it in such a shape that those who shall succeed your honors in dealing with this question may be guided in some way through these fields of testimony. When we adjourned yesterday, I was showing at what distance from the shore the codfishery in the estuary of the St. Lawrence is prosecuted. Before proceeding to another part of the evidence I desire to draw the attention of your honors to what has fallen from the learned counsel on behalf of the United States, Mr. Foster and Mr. Trescot.

Mr. Trescot admits that the British case can be supported by proof of "*the habit of United States fishermen.*"

If fifty fishermen of a fishing fleet swore that it was the habit of the fleet to fish inshore and fifty swore that it was the habit never to fish inshore, you might not know which to believe: but supposing, what in this case will not be disputed, that the witnesses were of equal veracity, you would certainly know that you had not proved the habit.

You will see, therefore, that the burden of proof is on our friends. They must prove their catch equal in value to the award they claim. If they cannot do that, and undertake to prove habit, then they must do—what they have not done—prove it by an overwhelming majority of witnesses. With equal testimony their proof fails.

There is an enormous quantity of testimony produced, on the part of Her Majesty's Government, to show that the United States fishing *fleet* constantly, throughout the season, fished within three miles of almost all the shores of the Gulf of St. Lawrence—on the shores of Nova Scotia (including all the shores of Cape Breton), the shores of Prince Edward Island, the west shore of the gulf, the shores of Bay de Chaleur and Gaspé, both shores of the River St. Lawrence, and the whole north shore to Labrador, the shores of Anticosti, as well as the shores of the Bay of Fundy. The various fleets of United States vessels were very seldom if ever, during the fishing season, out of sight of very large numbers of respectable and intelligent witnesses residing on various parts of the coast, whose sworn evidence has been received by the Commission. Besides, witnesses—too numerous to mention—have given evidence sufficient literally to fill a volume, of having fished in American bottoms; and they testify that the common custom of the various fleets

was to fish within three miles of all the shores thrown open by the Treaty of Washington.

In addition to this, a very large number of witnesses have corroborated the views of almost all United States writers and statesmen who have offered the opinion that without the "three mile belt" the gulf fishery is useless; and these latter witnesses, who have been interrogated on the subject, have, without perhaps a single exception, stated that the American skippers and fishermen have invariably admitted that without the free use and enjoyment of the three-mile inshore fisheries, they considered it useless to enter the Bay of St. Lawrence for fishing purposes. Can there be stronger proof of habit? Speaking of the British testimony, says the learned counsel, Mr. Trescot: "With equal testimony, their proof fails." Perhaps so. Has "equal testimony" been produced by the United States? Is there any testimony whatever to contradict this immense mass of evidence of the "habit" of the United States fishing fleet?

Numbers of fishermen were produced by the United States to show that they themselves had fished at Banks Bradley and Orphan, and other Banks and shoals, and at the Magdalen Islands, outside of British waters, who, by the way, nearly all suffered loss, but scarcely any of these witnesses undertook to show *where* the fleet fished. On the contrary, they almost invariably qualified their statements by showing that they spoke only of their own individual fishing.

The learned counsel for the United States impliedly admits that unless there has been produced witnesses contradicting the British evidence as to "habit," the British Case is made out. There is a singular absence in the vast number of witnesses and affidavits produced on both sides for twelve weeks—there is a singular and marked absence of contradiction, and upon the principle involving "habit," enunciated by Mr. Trescot, the evidence can be relied on with confidence, as fully and completely establishing the claim.

The learned Agent, Mr. Foster, in his very able speech, contends that the British claim is not made out because there are but a trifling quantity of fish caught by United States vessels within the formerly prohibited limits; but it can be clearly shown that he is entirely mistaken as to the weight and character of the evidence. He says:

If the three-mile limit off the bend of Prince Edward Island and down by Margaree, where our fishermen sometimes fish a week or two in the autumn (and those are the two points to which almost all the evidence of inshore fishing in this case relates), if the three-mile limit had been buoyed out in those places, and our people could have fished where they had a right to, under the law of nations and the terms of the treaty, nobody would have heard any complaint.

Again:

Almost all the evidence in this case of fishing within three miles of the shore relates to the bend of Prince Edward Island and to the vicinity of Margaree. As to the bend of the island it appears in the first place that many of our fishermen regard it as a dangerous place, and shun it on that account, not daring to come as near the shore as within three miles, because in case of a gale blowing on shore their vessels would be likely to be wrecked.

He also says:

There is something peculiar about this Prince Edward Island fishery, and its relative proportion to the Nova Scotia fishery. As I said before, I am inclined to believe that the greatest proportion of mackerel caught anywhere inshore, are caught off Margaree late in the autumn. The United States vessels, on their homeward voyage, make harbor at Port Hood, and lie there one or two weeks; while there they do fish within three miles of Margaree Island; not between Margaree Island and the main land, but within three miles of the island shores; and just there is found water deep enough for vessel-fishing. Look at the chart, which fully explains this fact to my mind. Margaree is a part of Nova Scotia,

and Professor Hind says there is an immense boat-catch all along the outer coast of Nova Scotia, and estimates that of the mackerel catch Quebec furnishes 7 per cent. (he does not say where it comes from), Nova Scotia, 80 per cent., New Brunswick, 3 per cent., and Prince Edward Island 10 per cent.

This is also from the learned Agent of the United States :

When I called Professor Hind's attention to that, and remarked to him that I had not heard much about the places where mackerel were caught in Nova Scotia, he said it was because there was an immense boat-catch on the coast. If there has been any evidence of United States vessels fishing for mackerel within three miles of the shores, or more than three miles from the shore of the outer coast of Nova Scotia, it has escaped my attention. I call my friend's attention to that point. If there is any considerable evidence, I do not know but I might say any appreciable evidence of United States vessels fishing for mackerel off the coast of Nova Scotia (I am not now speaking of Margaree, but the coast of Nova Scotia), it has escaped my attention. As to Cape Breton, very little evidence has been given, except in reference to the waters in the neighborhood of Port Hood.

Providing Mr. Foster were correct in the view he has put forward of the evidence, he might with some reason urge the Commission to refuse the award claimed on behalf of Her Majesty's Government.

Nothing could be more unjust and unfair to the character of the Canadian fisheries than to adopt the statement of the learned Agent as to Prince Edward Island and Margaree as the correct result of the facts established by absolutely uncontradicted evidence now before the Commission.

It is true that the main efforts of United States counsel were exerted to impeach the large array of respectable witnesses who testified to the great wealth of the fishery in the bend of Prince Edward Island, and the constant use of those grounds by United States fleets. But if Mr. Foster should ever again have occasion closely to examine the whole evidence given in this case on both sides, he will find that, beyond the efforts to depreciate that tract of water between the North Cape and the East Point, and that at Grand Manan, there is scarcely a line of testimony offered by him or his learned associates to shake or contradict the evidence given respecting all the other vast and rich Canadian fishing grounds. The evidence of the value to and use by American fishermen of all the coasts of Nova Scotia from the Bay of Fundy eastward, all around the island of Cape Breton, the north shores of the coasts and bays of New Brunswick to Gaspé, and the entire coast of Quebec, within the jurisdiction of the Commission, is almost, if not absolutely, uncontradicted.

This applies as well to the affidavits as to the oral testimony, and it may be stated here of the British affidavits, what cannot be said of those of the United States, that they are strikingly corroborated by the testimony of witnesses both on the direct as well as the cross-examination.

I here produce a number of extracts and references, which are more than sufficient to convince even our learned friends on the other side, that they have taken only a very partial view of this case. And I call Mr. Foster's especial attention to these witnesses. At the risk of being considered tedious I cite this evidence, because the statement of my learned friend was emphatic, and he threw out a special challenge in asserting that there was but little evidence of fishing by Americans, except at the two places mentioned by him.

The pages refer to the British Evidence :

Page 79.—Mr. George Harbour, a resident of Sandy Beach, Gaspé, was called as a witness, and gave evidence of the Americans fishing for mackerel in that locality. He says: "They came in right to the shore, close to the rocks. Upon an average, they take 500 barrels in a season (two trips). He has never seen them fishing for mackerel outside of three miles."

Page 83.—Mr. William S. Sinnett, a resident of Griffin's Cove, Gaspé, called as a witness, says: "That he has seen American skippers fish two miles from the shore, and inside of a mile for mackerel; and that he has never seen them fishing outside of three miles. This witness speaks entirely with reference to his own locality."

Page 87.—Mr. George Grenier, of Newport, Gaspé, gave evidence that he "has seen American vessels fishing for mackerel 25 yards from the Point."

Page —. Hon. Thomas Savage, of Cape Cove, Gaspé, says in his evidence, that "the fishing grounds extend from Cape Gaspé to Cape Chatte. As soon as the mackerel come in, the American fishermen take that fish, and the Gaspé fishermen cannot get bait."

Page 276.—Mr. James Joseph testifies that he has seen the Americans fishing from Cape Chatte to Gaspé right along the shore, all within one or two miles from the shore.

Page 280.—Mr. Joseph Couteau, of Cape Despair, Gaspé, called as a witness, says that "the Americans fish along the coast of Gaspé, from one to three miles off shore."

These witnesses are confirmed and supported by Wm. McLeod, of Port Daniel, Gaspé; Philip Vibert, of Perce, Gaspé; James Baker, Cape Cove, Gaspé; Wm. Flyn, Perce, Gaspé; Abraham Lebrun, Perce, Gaspé; Louis Roy, Perce, Gaspé.

Page 180.—Mr. James McKay, deputy inspector of fish, Port Malgrave, after giving evidence of fishing close inshore off Cape Breton, in 1862, says: "In 1872, fished in American schooner Colonel Cook, and caught 400 barrels on second trip—three-fourths caught inshore. Caught 800 barrels of mackerel in two trips in 1872. In 1873, caught 360 barrels in two trips. The greatest portion of the fish were taken about Cape Low, Cape Breton, 'close inshore.'"

Page 226.—Mr. John Stapleton, of Port Hawkesbury, C. B., says in his evidence that he has fished in American vessels "in Bay Chaleur, on the west coast of New Brunswick, to Escuminac and Point Miscou, from Point Miscou to Shippegan, and thence to Paspebiac and Port Daniel, down to Gaspé, round Bonaventure Island as far as Cape Rogers.

Page 243.—Mr. James Lord, of Deer Island, N. B., gives evidence that the Americans "take as much as the British fishermen on the main-land from Point Lepreaux, including West Isles, Campobello, and Grand Manan."

Page 347.—Hon. Wm. Ross, collector of customs at Halifax, formerly a resident of Cape Breton, and a member of the privy council of Canada, gives evidence as follows: "The American fishermen fish for mackerel on the *Atlantic coast* of Cape Breton, from Cape North to Scatterie, in August, September, and October, fishing inshore and off shore, but more inshore than off shore."

Page 374.—Mr. John McDonald, of East Point, Prince Edward Island, says, in his evidence, that he "has fished in American vessels about Cape Breton, Prince Edward Island, on West Shore, Bay of Chaleurs, and Gaspé, within three-mile limit."

Similar evidence is given by—

Page 558.—John Dillon, Steep Creek, Gut Canso.

Page 361.—Marshall Paquet, Souris, Prince Edward Island.

Page 365.—Barnaby McIsaac, East Point, Prince Edward Island.

Page 384.—John D. McDonald, Souris, Prince Edward Island.

Page 388.—Peter S. Richardson, Chester, New Brunswick.

Page 399.—Mr. Holland C. Payson, fishery overseer at Westport, Nova Scotia, says in his evidence that St. Mary's Bay, the coast around

Digby Neck, with Briar Island and Long Island, are valuable fishing grounds. The Two Islands, in 1876, exported about \$200,000 worth of fish. This district is frequented by small American schooners, who fish for cod, halibut, pollock, and herring.

Mr. Payson's evidence is corroborated by that of Mr. B. H. Ruggles, of Briar Island, Digby, Nova Scotia.

Page 407.—Mr. John C. Cunningham, of Cape Sable Island, Nova Scotia, says in evidence that United States fishermen take halibut off Shelburne County, within three miles of the shore, say $1\frac{1}{2}$ to 2 miles. A full fare is about 800 quintals; take two fares in three months.

These witnesses were examined orally, and nearly all, if not all, ably cross-examined.

The following are from the British affidavits, also to show the extent of coast used by United States fishermen:

J. E. Marshall, a native of Maine, was 10 years master United States fishing vessel:

1. The fishing by American schooners was very often extensive from 1852 to 1870. During that period the number of American vessels which have visited the shores of the Gulf of St. Lawrence for fishing purposes, yearly, amounted from 300 to 500 sails. This I have seen with my own eyes. All these were mackerel-fishing. The places where the Americans fished most during that period were on the shores of Cape Breton, Prince Edward Island, New Brunswick, and on the shores of Bay of Chaleur from Port Daniel to Dalhousie, and east from Port Daniel to Bonaventure Island, in Gaspé Bay, and on the south shore of Gaspé from Cape Rozier to Matane, and on the north shore from Moisie to Gadabout River. I have fished myself nearly every year in these places, and I never missed my voyage.

Jas. A. Nickerson, master mariner, Nova Scotia:

4. My best catches were taken off the north coast of Cape Breton, from Shittegan to Hanley Island, Port Hood, and I never caught any of the fish to speak of beyond three miles from the shore. I am certain, and positively swear, that fully nine-tenths, and I believe more than that proportion, of my entire catch was taken within three miles of the shore; the nearer to the shore I could get, the better it would be for catching fish. One reason of that is that the mackerel keep close inshore to get the fishes they feed on, and these little fishes keep in the eddies of the tide quite close to the shore.

9. These American fishermen get their catches in the same place we did. They took the fish close in to the shore, that is, by far the larger proportion of them, and the opinion among the American fishermen was universal that if they were excluded from fishing within these three miles off the shore, they might as well at once abandon the fishery.

John L. Ingraham, Sydney, Cape Breton, Nova Scotia, fish merchant:

I have seen at one time two hundred American fishing-vessels in this harbor. In the summer of eighteen hundred and seventy-six I have seen as many as thirty at one time.

3. These vessels fish often within one-half mile of the coast, north and east of Cape Breton, and all round.

21. American fishermen come around the southern and eastern coast of Cape Breton by dozens through the canal and Bras d'Or Lake, and wherever it suits them.

Daniel McPhee, fisherman, Prince Edward Island:

1. That I have personally been engaged in the mackerel and cod fishing in the Gulf of St. Lawrence since the year 1863.

2. That in the year 1863 I commenced mackerel fishing in the American vessel Messina, and that during that year we fished in the Bay Chaleur, and took home with us six hundred barrels of mackerel during the fishing season of that year, one-third of which quantity, I would say, was caught within three miles of the shore.

10. That about 200 of the American vessels get their bait on the Nova Scotia coast, and, in my opinion, without the bait obtained there they could not carry on the fishing.

11. Then there is also a fleet of 40 American vessels which fish off Grand Manan. They average 350 barrels of herring per vessel, which are caught close to the shore.

Chas. W. Dunn, fisherman, Prince Edward Island:

1. That I have been engaged in fishing for about twenty-eight years, winter and summer, in both boats and vessels, having fished in the cod-fishing on the Banks for about seven winters. I have also fished mackerel in the gulf with the Americans, from the summer of 1868 till 1871, and also in the halibut fishery on these coasts.

2. At Anticosti we could often see the halibut on the bottom when we were trawling.

This would be about two or three hundred yards from shore. I have seen ten thousand halibut a day caught at Anticosti, in water where we could see bottom. This halibut fishery is the best paying fishery that I have ever been in. I have made ninety dollars in twelve days as one of the hands at that fishery.

Jas. Houlette, fisherman, Prince Edward Island :

1. That I have been engaged in fishing for fifteen years, in vessels belonging to the United States. I have fished all about Bay Chaleur, from Port Hood to Seven Islands, at the Magdalens, all along this island coast, and two years mackerel-fishing on the American shores, and many winters cod-fishing.

John R. McDonald, farmer and fisherman, Prince Edward Island:

13. That *almost all the American fishermen* fish close in to the shore of the *different provinces of the Dominion*, and I do not think the Americans would find it worth while to fit out for the gulf fishing if they could not fish near the shore. The year the cutters were about the Americans did not do very much, although they used to dodge the cutters and fish in-shore.

Alphonso Gilman, fisherman, Prince Edward Island :

7. That when the mackerel first come into the bay, they generally come up toward Bay Chaleur, Gaspé, and round there, passing the Magdalen Islands on their way. It is up there that the American fleet generally goes first to catch fish.

Joseph Campbell, Prince Edward Island, master mariner, 9 years, United States vessels :

2. That from the year 1858 to 1867 I was constantly and actively engaged in fishing aboard American vessels, and during that time I fished on all the fishing-grounds.

3. We got our first fare generally in the Bay Chaleur. Fully nine-tenths of this fare would be caught close inshore, within the three-mile limit.

Alex. Chiverie, merchant, Prince Edward's Island, formerly fisherman ; was 20 years in United States vessels. "We fished off the north part of Cape Breton, and caught the whole of our fare within three miles from the shore."

7. That in the year 1867 I was master of a British fishing schooner. The first trip of that season we fished between the Mira nichi and Bay Chaleur. During that trip the fish played chiefly inshore, about a mile from the shore. At times during that trip I would be getting a good catch, when the American vessels, to the number of fifty or sixty, would come along, and by drawing off the fish spoil my fishing. During that trip the Americans, I would say, caught fully three-fourths of their fare within the three-mile limit.

Nathaniel Jost, master mariner, Lunenburg, Nova Scotia :

2. I have also seen many American mackerel-men engaged in taking mackerel around the coast of Cape Breton, Prince Edward Island, and eastern side of New Brunswick, and many of these fished inshore. I would say that there were at least four hundred American vessels around the before-mentioned coasts taking mackerel. During the past two years I have seen at one time in sight five American vessels engaged in taking codfish on the southern coast of Nova Scotia, and a great many in sailing along ; and at Sable Island this spring I have seen from fifteen to twenty in sight at one time, engaged in taking codfish.

Benjamin Wentzler, fisherman, Lower LaHave, Nova Scotia :

1. I have been engaged in the fisheries for twenty-seven years, up to eighteen hundred and seventy-five inclusive, and fished every year in the North Bay, around Cape Breton, Prince Edward Island, eastern side of New Brunswick, and around the Magdalens. I have taken all the fish found in the waters on the above-mentioned coast. I am also well acquainted with the inshore fisheries in Lunenburg County. I have seen often more than a hundred American vessels fishing on the above-named coasts in one fleet together, and I have seen these vessels make off from the shore when a steamer appeared to protect the fishery, and when the smoke of the steamer could not be seen they came in again to the shore. Such large numbers of them made it dangerous for Nova Scotian fishermen, and I have lost many a night's sleep by them, in order to protect our vessels. I have seen in Port Hood harbor about three hundred sail of American vessels at one time, and it is seldom, if ever, that a third of them are in any harbor at one time, and I have been run into by an American schooner at Port Hood Harbor. From 1871 to 1875, inclusive, I have seen the Americans in large numbers around Prince Edward Island, eastern side of New Brunswick, and around Cape Breton. I have seen many American vessels on the above-mentioned coast engaged in taking codfish.

Jeffrey Cook, fisherman, Lunenburg, Nova Scotia:

2. While in the Bay of Chaleur, the summer before last, I saw many American vessels there engaged in fishing, and have also seen many of them there fishing since 1871. I have counted, the summer before last, fifty American vessels within three-fourths of a mile from each other. The most of the American vessels which I saw fished inshore around the above-mentioned coasts. I saw them take both codfish and mackerel inshore, within three miles of the shore. Mackerel are taken mostly all inshore, and I would not fit out a vessel to take mackerel unless she fished inshore.

James F. White, merchant, Prince Edward Island:

13. The mackerel, in spring, come down the Nova Scotian shore, and then strike up the bay to the Magdalen Islands; from there some shoals move toward the bend of this island, and others toward Bay Chaleur, Gaspé, and round there. The Americans are well acquainted with this habit of the mackerel and follow them. They have very smart schooners and follow the fish along the shore, taking their cue, to a great extent, from what they see our boats doing.

John Champion, fisherman, Prince Edward Island:

13. On an average there are eight hundred American vessels engaged in the cod, hake, and mackerel fisheries in the bay, that is, including this island coast, the Magdalen Islands, the New Brunswick and Nova Scotian coasts. There have been as many as fifteen hundred sail in a season, according to their own accounts. I myself have seen three hundred sail of them in a day.

Wm. Champion, fisherman, Prince Edward Island:

Was one year in an American vessel, down eastward on this island, and about Port Hood, Antigonish, Cape George, and other places in that direction; the boats and also the schooners fish close inshore. We fished right up in the Bay Chaleur and round the other shores of the provinces.

James B. Hadley, Port Mulgrave, notary public, merchant:

The principal places where the Americans fish for mackerel in the summer months are all over the Gulf of St. Lawrence, off Pomquet Island, Port Hood, Prince Edward Island, in the Northumberland Straits, off Point Miscou, as far up as the Magdalen River, across to the Seven Islands, off and around Magdalen Islands; and in the fall from East Point and the Magdalen Islands, and Island Brion; thence to Cape St. Lawrence and Port Hood, and around the eastern shore of Cape Breton to Sydney Harbor. The trawling for codfish is done all around our shores from the first of May till fall.

George McKenzie, master mariner, Prince Edward Island, was 40 years fishing:

When the mackerel strike off for this island the American schooners never wait along the bight of this island, but press up toward the North Cape, and Miscou, and Mira, and generally along the west coast of New Brunswick and up as far as Seven Islands above Anticosti, as their experience has taught them that that is the quarter where the fish are to be found first. Later on, in August and September they come back into the bight of this island. Nearly all the fish caught during these times are caught near the shores of the British possessions, although there are some American vessels which fished entirely in deep water away from the land, but these are comparatively few.

William H. Sweet, of Fall River, in the State of Massachusetts, United States of America, but now of Port Hood, fisherman:

1. I have been engaged in the fishing-vessels fitted out by the Americans for the past five years, and have been engaged during that time in fishing in *all parts of the gulf, on the coast of Nova Scotia, Cape Breton, and Prince Edward Island, and on the shores of the Magdalen Island.*

2. A large number of American vessels have been engaged in fishing in these waters for some years past, taking chiefly mackerel and codfish.

James Archibald, fisherman, of Boston:

1. I have been engaged in the fishing business for 20 years past, and during seven years past I have been fishing in American vessels, in American and Canadian waters. I have been engaged in various kinds of fishing on the coasts of Nova Scotia, and Cape Breton, in the gulf and about the Magdalen Islands, and Prince Edward Island. I came into this port in an American fishing vessel, and have been engaged in fishing here during the present season.

This last is corroborated by Richard Thomas, fisherman, of Booth Bay, Me.

Michael Crispo, merchant, Harbor au Bouche, Nova Scotia :

The mackerel are caught all around the shores of the Gulf of St. Lawrence.

Thomas C. Roberts, master mariner, Cape Canso, Nova Scotia :

2. During the years that I was employed in fishing, the number of American vessels fishing for mackerel and codfish in the Gulf of St. Lawrence and on the coast of Nova Scotia would, to the best of my knowledge, range from six hundred to seven hundred each year. The average number of men to each vessel would be about fifteen.

Jacob Groser, fisherman, Lower LaHave, Nova Scotia :

2. Four years ago I was in the Bay of Chaleur, and for many years constantly before that time year after year. Five years ago I have seen in the Bay of Chaleur from two to three hundred American vessels in one fleet. The most of these vessels took mackerel and they took the most of their mackerel inshore, and very seldom caught much mackerel beyond three miles from the shore.

Philip LeMontais, Arichat, agent of Robin & Co :

The harbor of Cheticamp is much frequented by American fishing-vessels, and I have seen at one time along the shores between six hundred and eight hundred fishing-vessels, most of which were American. These vessels were fishing for mackerel along the shore of Cape Breton.

John Ingraham, Yarmouth, Nova Scotia :

2. About six hundred American vessels, from all ports, are engaged in fishing in Canadian waters ; the average number of men is about fourteen ; this is within my knowledge the past fifteen years. They fish for mackerel, codfish, and halibut, from Bay de Chaleur to Cape Forchu.

Page 110.—John Morien, of Port Medway, Nova Scotia, proves fishing for mackerel by American vessels at Cape Canso, within half a mile of the shore.

Page 111.—John Smeltzer, of Lunenburg, testifies that he has seen American vessels fishing for mackerel in the back harbor of Lunenburg.

Page 115.—John Bagnall, of Gabarus, Cape Breton, proves American fishing-vessels in Gabarus Bay, northeast side of Cape Breton.

Page 118.—Ryan Murphy, of Port Hood, Cape Breton, swears that he has known as many as 700 American vessels fishing in the gulf and the shores around *Nova Scotia, Cape Breton*, and the Magdalen Islands.

Page 126.—H. Robertson, of Griffin's Cove, Gaspé, proves an extensive mackerel fishery by Americans at Griffin's Cove, and neighboring coves.

Page 126.—Donald West, of Grand Creve, Gaspé, swears to over 100 American schooners in Gaspé Bay, yearly, for mackerel fishing.

Page 127.—Michael McInnis, of Port Daniel, Bonaventure County, Quebec, testifies that the mackerel fishery by Americans has been carried on, on an extensive scale, on that shore.

Pages 134 and 136.—John Legresly and John Legros, of Point St. Peter, Gaspé, prove a large number of American mackerelers in Gaspé Bay during and since the Reciprocity Treaty.

Daniel Orange and Joshua Monrant, of Paspebiac, Gaspé, swear that they have annually seen a large fleet of American mackerelers in Bay of Chaleur.

Page 138 to 190.—Forty-nine others, all of Gaspé, swear to the continual use by the United States fishermen of the fishing-grounds inshore of that region, and to the annual presence of a large fleet of American fishing-vessels in the Bay of Chaleur and Gaspé Bay.

The following persons also testify that the Americans fish on all the

shores of Nova Scotia, eastern and northern shores of Cape Breton, Antigonish Bay, east coast of New Brunswick, and Bay Chaleur :

Page of affidavits.

156. W. Wyse, Chatham, New Brunswick.
181. Gabriel Seaboyer, Lunenburg, Nova Scotia.
182. Patrick Mullins, Sydney, C. B., Nova Scotia.
190. John Carter, Port Mouton, Nova Scotia.
192. Thomas Condon, Guysboro', Nova Scotia.
200. Matthew Monroe, Guysboro', Nova Scotia.
200. Isaac W. Rennells, Cape Breton, Nova Scotia.
206. Joshua Smith, Cape Breton, Nova Scotia.
207. Martin Wentzel, Lunenburg, Nova Scotia.
209. Alexander McDonald, Cape Breton, Nova Scotia.
216. Amos H. Outhouse, Digby, Nova Scotia.
226. Robert S. Eakins, Yarmouth, Nova Scotia.
227. John A. McLeod, Kensington, Prince Edward Island.
230. Angus B. McDonald, Souris, Prince Edward Island.
233. John McIntyre, Fairfield, Prince Edward Island.
237. Thomas Walsh, Souris, Prince Edward Island.
239. Daniel McIntyre, Prince Edward Island.
217. John Merchant, Northumberland, New Brunswick.

From end to end the British evidence shows that the United States fishermen carry on their operations within the British territorial waters. I beg here to introduce a few instances from the evidence of the United States witnesses who were produced to prove that the mackerel fishery was carried on in what is called by the United States counsel "the open sea."

TIMOTHY A. DANIES, of Wellfleet, Mass., fisherman, called on behalf of the Government of the United States, sworn and examined.

By Mr. Foster :

Question. How old are you?—Answer. Seventy years.

Q. Were you engaged in mackerel fishing during a good many years?—A. Yes.

Q. How many years did you come to the gulf to fish mackerel?—A. Seventeen years.

Q. What year did you begin and what year end?—A. From 1846 to 1873, I believe, inclusive ; one year out.

Q. Were you in the same schooner all the time?—A. Yes.

Q. What was the name of the vessel?—A. Pioneer.

Q. What tonnage?—A. 62 tons.

Q. New or old measurement?—A. Old measurement.

Q. Were you captain all these years?—A. Yes.

Q. Where did you do your principal fishing in those places ; more than three miles from shore, or less?—A. More than three miles.

Q. If you were a young man and fisherman once more, and wanted to come to the gulf to catch mackerel, would you be prevented from doing it by the fact that you were forbidden to fish within three miles of the shore?—A. I think so.

By Mr. Weatherbe :

Q. If you were forbidden to come within three miles of the shore, would you come at all?—A. It would be under certain circumstances. If there were no fish with us and plenty there, perhaps I might ; I cannot say as to that.

Q. From your experience, if you had been restricted, during all these years you came to the bay, from coming to within three miles of the shore, you would not have come?—A. I think not.

Stephen H. Martin, master-mariner and fisherman, of Gloucester, was called on behalf of the Government of the United States. Here are some extracts from pages 212 and 215 of the American evidence :

By Mr. Dana :

Q. But you did not fish within the three-mile limit?—A. No.

Q. Can you not find out from reports of vessels and from your own observation where the fish are?—A. Yes.

Q. You keep your ears and eyes open all the time you are fishing?—A. Yes.

Q. It is not necessary, actually, to go in and try if you find vessels leaving a place without catching anything, to discover that this is the case?—A. No.

Q. And you have to judge as to the presence of fish, a good deal from the reports of others?—A. Yes. A great many men have a choice as to fishing grounds; this is the case everywhere, whether in cod, halibut, or mackerel fishing. Some fish one way and some another.

Q. From your experience in the bay—a pretty long one—do you attach much importance to the right of fishing within three miles of the shore?—A. Well, no, I do not think it is of any importance. It never was so to me.

By Mr. Weatherbe:

Q. You never fished so close to the shore as that?—A. Sometimes we did. We fished within five miles of Bird Rocks.

Q. And within four miles of them?—A. Well, yes.

Q. But you did not generally run in so close?—A. We might have done so. I could not tell exactly how far off we fished. We used to catch our fish on different days in different places.

Q. You were asked whether you would not have your ears open and your understanding to know where other people caught their fish, and your answer was that some people had their choice?—A. Yes, sir.

Q. That is to say, that some people have their choice to fish in certain places and others in different places?—A. Yes.

Q. And that is the only answer you gave? I suppose that you did hear where others were fishing. Have you given a full answer?—A. I have given a full answer.

Q. You must have heard where others have fished?—A. Of course, if a man gets a full trip on Orphan Bank he will go there again.

Q. He does not care where others have fished?—A. No.

Q. Then it is possible that some fish altogether in one place and some altogether in another place?—A. Well, I don't know anything about that; I only know my own experience.

Q. Then you can give no idea where fish are caught except your own actual experience?—A. Well, I know where people have said.

Q. That is just what Mr. Dana asked you. I want to take the same ground that he did that your ears were opened and you understood. Your answer was simply that some had their choice?—A. If I spoke a vessel and he said there was a good prospect at Bradley I should go there. If he said there was good fishing on the Magdalens I should go there.

Q. I thought that your answer was that some would have their choice; that no matter what they heard they would still go to the same places?—A. I would go where I got good catches the year before.

Q. Then you didn't hear of others fishing in other places?—A. I have heard of them fishing at Bradley and Magdalens and up the gulf.

Again:

Q. Now, I don't want to trouble you with reading any opinions, but about what time was it ascertained that the mackerel-fishing was inshore?—A. I could not tell.

Q. At the time you mentioned it was not known that it was an inshore fishery at all?—A. No, not to my knowledge.

Q. It was after it was ascertained that it was an inshore fishery that you heard of a difficulty about the limit?—A. Yes.

By Mr. Dana:

Q. I wish to ask you with reference to the last question when you ascertained that the mackerel fishery was an inshore fishery?—A. I stated it was not in the year 1838.

Q. Mr. Weatherbe asked you when you first ascertained that the mackerel fishery was an inshore fishery, and whether this or that happened before you ascertained that it was an inshore fishery. Now, have you ever learned that it was an inshore fishery in distinction from an outshore fishery?—A. No.

Q. Well, what do you mean when you speak of "after you understood it was an inshore fishery." Do you mean mainly or largely inshore?—A. No. We would hardly ever catch any inshore in the first part of the season. Some parts of the year they did take them inshore and off shore, too.

Q. Taking them all through, where did you catch them?—A. Most of them are caught off shore.

By Mr. Weatherbe:

Q. I asked when it was that the difficulty first arose about the limit, and whether it was after it was considered an inshore fishery: that is, 1839?—A. I referred to the year '38. It was an inshore fishery when they fished there. When vessels didn't fish there, you could not call it an inshore fishery.

The attempt of many witnesses to show that the fishing was all carried on outside of three miles, was amusing, to say the least.

Isaac Burgess, of Belfast, Maine, fisherman, called on behalf of the Government of the United States, sworn and examined by Mr. Foster.

This witness fished in the Gulf of St. Lawrence in the years 1868, 1869, 1872, and 1874, and, excepting on one day, all his fishing was outside of three miles.

By Mr. Weatherbe :

Q. You caught your mackerel four miles off?—A. Yes.

Q. What proportion?—A. Half of them; I could not tell.

Q. I suppose that would be the distance you would select as being good fishing?—A. Yes, sir.

Q. That would be the best fishing you have?—A. Yes, sir.

Q. I suppose most of the fishermen fished that distance?—A. Yes; they generally fished off there near four or five miles.

Q. It is considered about the best fishing, four or five miles?—A. Yes; it is.

Q. I suppose in some places the fish would go in three and a half miles?—A. Yes; some fish do.

Q. You would not mind coming in three and a half miles if you were four miles out; I suppose sometimes they would manage to get in three miles?—A. No vessel that I have ever been in.

Q. I am not speaking of the vessels, but the fish; is there anything to stop them at four miles?—A. No.

Q. There is no obstruction of any kind; just as good water?—A. Yes; only a little shallower.

Q. Just as good feed?—A. Yes.

Q. Perhaps better feed?—A. Well, most generally the gales drive them off, but they come back again.

Q. I suppose when the wind is a little off shore the best feed would be inside, close in?—A. Yes.

Q. Closer inside than four miles?—A. I should say so.

Q. They would then go in pretty close?—A. Yes.

Q. You would then go in there and drift off?—A. Yes.

Q. And the fleet would do that. We have evidence of that. The fleet would run in as close as they could get and then drift off?—A. Yes; that was the way they fished.

Q. As close as they could get in?—A. Not within four miles.

Q. I was referring to a little closer. I wanted to come in a little closer if I could. I was throwing a little bait.—A. Well, probably there might have been some fellows got in handier.

Q. Some would go in handier?—A. Yes; some of the captains went in.

Q. Let us make a compromise and say three miles and a half. You don't object to that, do you?—(No answer.)

George Friend, of Gloucester, whose evidence is to be found on page 119 of the United States, was produced and examined by Mr. Foster. He had many years' experience of fishing in the Gulf of St. Lawrence, having fished there every year from 1855 to 1860, and owned several fishing-schooners, two of which were seized, but afterward released. He gave evidence that the great body of his mackerel were caught more than three miles from the shore.

He was cross examined, and at page 123 the following record appears:

By Mr. Weatherbe :

Q. Between 1868 and 1876 you had five vessels fishing?—A. Yes.

Q. And you made three mackerel trips?—A. Yes.

Q. And you lost money by them?—A. Yes.

Q. Where did the vessels fish—outside of the three-mile limit?—A. I could not tell you.

Q. You have no idea where they fished?—A. No.

Q. You had three vessels fishing in the bay; you sent them there?—A. Yes.

Q. They came home, and you lost money by the trips?—A. Yes.

Q. And you undertake to say that you do not know and never made any inquiry whether the vessels fished inshore or outside?—A. Yes.

Q. You never made any inquiry about it?—A. No.

This witness also stated that he was not aware whether any of these vessels had fishing licenses from the Canadian Government.

Q. Is the privilege of using the inshore fishery of any use to you as fishermen?—A. No; personally, I say no.

Q. Do you know that practically yourself?—A. That is my opinion.

Q. You never fished inshore?—A. No.

Q. Therefore you are not able to say so from your own knowledge?—A. I fished off shore for the very reason that I thought I would do better there. I had a perfect right to come inshore.

Q. You lost money, you say?—A. Yes.

Q. Did you ever try inshore fishing?—A. No.

Q. But you say the privilege of inshore is of no value?—A. That is my opinion.

Q. For what reason?—A. I gave you my reasons. It would keep the vessels out of the harbors, and they would get more mackerel.

Q. What else?—A. Then we would not have so many draughts. They lay in the harbors too long, and go into harbors when it comes night.

Q. Is it not the practice for the fishermen to run into the shore and drift off, and then run in again?—A. It is not always you can drift off shore.

Q. Is the privilege of going inshore an advantage to you?—A. If the mackerel were inshore, it would certainly be an advantage; if they were not inshore, it would not be an advantage.

Q. You never tried whether the inshore was not better than the outshore fishing; why did you not try it?—A. Because I thought I could do better outside.

Q. Year after year you lost money. As a business man, why did you not try fishing inshore like other fishermen who have made money?—A. I don't know where they are; they are very much scattered.

Q. Why did you not try?—A. Because I thought I could do better off shore.

Q. Do you know of any vessel which fished within three miles of the shore?—A. Not personally.

Q. Why do you say not personally?—A. Because I do not know any one. I never saw them in there fishing.

Q. Did you hear of any vessel which fished inshore?—A. I could not tell what I have heard.

Q. Have you heard of vessels fishing inshore?—A. I could not answer that.

Q. Did you ever make any inquiries?—A. No; I was not interested.

Q. You fished off shore, lost money, and never tried to fish inshore, and never made any inquiries as to whether there was good fishing there or not?—A. Yes.

This is from the record of the evidence of Charles H. Brier, of Belfast, Me., called on behalf of the Government of the United States:

By Mr. Doutre:

Q. Can you find out easily whether you are three miles or four miles or five miles off?—A. I don't know how we can.

Q. Suppose you were about five or four miles, would you call it off shore or inshore?—A. I would call it inshore.

Q. Then what leads you to say you caught about half of your trip inshore and half out?—A. Because we did, I suppose. We had a license to fish inshore and we did.

Q. You were not afraid of going in there? So long as you found fish you fished there?—A. Yes.

Q. Well, you had no reason whatever, had you, to take a note of the quantity taken inshore or outshore; what reminds you now of the fact?—A. I don't know anything to remind me, only that we fished about half the time off shore and caught about as many fish off shore as in.

Permit to refer to one locality to show how completely our learned brethren on the other side have ignored our evidence. I select this instance because the absence of contradiction is, perhaps, unusually striking. Grand Manan, on the west side of the Bay of Fundy, I have intimated, has received the especial attention of United States counsel, and many witnesses were called to contradict the very strong case made out by Mr. Thomson there.

Let me call your attention to the other side of that bay, and to the attention bestowed to that part of the Province of Nova Scotia by my learned friend, Mr. Weatherbe. If you look at the map you will find St. Mary's Bay on the southwesternmost corner of Nova Scotia, on the eastern shore of the mouth of the Bay of Fundy. From Cape Split,

near the head of the Bay of Fundy, follow down the eastern shore of that bay to Brier Island, at the very extremity of Digby Neck, a strip of rocky soil, averaging one or two miles in width, which forms the barrier between the Bay of Fundy and St. Mary's Bay, a bay six miles in width at Petite Passage. From Brier Island go to the head of St. Mary's Bay thirty miles, and follow the sinuosities of the opposite coast to its mouth, and proceed southwardly along the shores of the old French settlement of Clare toward Barrington—that ancient town which was founded by fishermen from Cape Cod, who settled there with their families in 1763. Here is a coast line on the western part of Nova Scotia 250 or 300 miles, including the whole length of Digby and Annapolis Counties, with the finest zones and currents and temperature on the globe for a great fishing-ground, swarming within three miles of the shore, as you will find by turning to the 413th page of the British evidence, with *codfish, haddock, pollock, halibut, herring, and mackerel*. In 24 hours, with the *Speedwell*, Professor Baird would extend the list of edible fish very much. It is true, we did not call witnesses from every part of this coast. It would have occupied too much time. We did, however, produce sufficient evidence. Take Brier and Long Islands—about 14 miles in their entire coast line. These islands are within about five or six hours' sail of the United States, and will in a few months be almost connected by rail, after you cross St. Mary's Bay, with Halifax. The inspector of fisheries at Brier Island, Holland C. Payson, who was cross-examined by Mr. Dana, has carefully collected information. The people of these two islands alone catch \$200,000 worth of fish annually. It would be fair to put the catch of that entire coast at three millions and a half. Ezra Turner, from Maine, whose testimony is to be found on page 235 of the American evidence, and who has fished in the British waters for thirty or forty years, swore that Maine is bankrupt in the fisheries from end to end. This is corroborated by a number of American witnesses, and by the official records of the nation.

In the American Answer it is claimed that the poor people of our fishing villages are saved from destitution by the American fishermen. Mr. Payson and Mr. Ruggles—the latter a descendant of the celebrated General Ruggles—say their people do not pay a cent of poor-tax. The almost destitute fishermen from the bleak coasts of Maine and from New England, *since the Treaty of Washington*, during the last four years throng these friendly neighboring coasts of ours, and from these two islands alone they carry away annually from one-third to one-fourth as many fish as are caught by the inhabitants—say \$50,000 worth. They come with small vessels, which they haul up or anchor, and they establish themselves on the shore and carry on these fisheries side by side with their Canadian brethren. This exercise of the right is gradually growing annually.

These American fishermen admit their distressed condition at home, and the great advantages they enjoy by access to our coasts. These fisheries of ours, with those on the New Brunswick shore, including the Grand Manan, are a great blessing to our neighbors. This is no fancy picture. Here is a list of the affidavits filed to establish the facts. Here are the facts from fourteen men, whose statements could have been fully sifted:

The statements of Holland C. Payson and Mr. Ruggles as to the value and extent of the fisheries in the Bay of Fundy and the southern coast of Nova Scotia are corroborated by the affidavits of—

155. Joseph D. Payson, Westport, Digby County.

207. Livingston Collins, Westport, Digby County.

- 218. Wallace Trask, Little River, Digby County.
- 218. Geo. E. Mosely, Tiverton, Digby County.
- 220. Gilbert Merrit, Sandy Cove, Digby County.
- 221. Joseph E. Denton, Little River, Digby County.
- 221. John McKay, Tiverton, Digby County.
- 222. Whitfield Outhouse, Tiverton, Digby County.
- 222. John W. Snow, Digby, Digby County.
- 223. James Patterson Foster, Port Williams, Annapolis.
- 223. Byron P. Ladd, Yarmouth, Yarmouth.
- 225. Samuel M. Ryerson, Yarmouth, Yarmouth.
- 240. Thomas Milner, Parker's Cove, Annapolis.
- 240. James W. Cousins, Digby Town, Digby.

More than seven weeks before the United States Agent closed his case, we produced two of the most intelligent and respectable men in the district. While Mr. Dana was cross-examining them, his countrymen were on the shores of Digby fishing with their vessels. A messenger in a few hours could have detected any exaggeration in their statements. From that hour to the end of their case not one word of all that evidence has been contradicted or shaken. These New England fishermen continue under the Treaty of Washington to pursue their ancient calling and their number is increasing on the western and southern shores of Nova Scotia and at Grand Manan, and all around the Bay of Fundy.

Mr. Dana calls this practical pursuit of the fisheries in British waters a franchise, an incorporeal faculty. Call it what you will, is it not a great advantage to his countrymen? Is it not the salvation of the State of Maine? Is it not affording an increasing number of Americans safe and steady employment? These fisheries do not fail. I invite the careful attention of the Commission to pages 399 and 412 of the British evidence. Are these fisheries not supplying cheap and wholesome food to citizens of the United States? Is it not making hardy sailors of her stalwart sons? Mr. Dana can appreciate that. Mr. Foster says he fails to find any evidence, except as to the bend of Prince Edward Island and Margaree. Can you "pencil in hand," measure by arithmetic the benefit of the right of fishing to the people of a whole coast who have been trained to no other pursuit, and whose families are dependent on the return of the boats from Brier Island and the other coast of Nova Scotia?

What goes on here at one extremity of these wonderfully varied and prolific fisheries is going on at the other extreme—at Gaspé and the mouth of the St. Lawrence, and at all other points varied by the circumstances of place.

I wish to call your attention to an error—shall I say a geographical error?—of our learned friends. The learned Agent for the United States says he can figure this question up pencil in hand. He admits with all the assistance of Mr. Babson and his figures (which are not evidence at all) he admits one link in the chain of his argument is wanting—the Port Mulgrave returns of 1875. Does the learned Agent know that the Port Mulgrave returns are entirely incomplete. Mr. Foster seems to be laboring under the delusion that every American fisherman reports himself as he passes through the Strait of Canso. This is really not the case. Look at the map and read the evidence and then see if it is possible to say how many fishermen never sail in the direction of the strait. All round the eastern and northern side of the Island of Cape Breton there are the finest mackerel grounds in the Gulf of St. Lawrence or the world. No United States witnesses could be produced to call this a dangerous coast. There are a number of fine harbors—the ancient port of Louisburg among the number—open all winter. This latter port is

now connected by forty miles of railroad with the magnificent harbor of Sydney.

James McKay, of Port Mulgrave, inspector of fish, was called and examined as a witness before the Commission. He says, "No one man stationed in the Gut of Canso can get an accurate list of the vessels that go through there. To do so is a moral impossibility."

James Purcell, revenue officer at Port Mulgrave, says: "The number of light-dues collected would not be a fair return as showing the actual number of vessels that pass through the Gut of Canso."

B. M. Smalley, fisherman, of Bedford, Maine, was called on behalf of the United States and examined. I invite the Commissioners to read his evidence:

Question. Now don't you think the same fish go out and in? Is it your idea that certain schools keep in one place, and certain schools in another?—Answer. Yes, it is my opinion the mackerel go out and in, and we know they do. But it is my positive idea that the best fish that go into the Bay Chaleurs go through the strait and by Sydney.

Q. Do you mean the Strait of Canso?—A. No; the Strait of Belleisle, and come down to Sydney.

Q. What time?—A. Well, they are passing up and down there after the month of August, until they all go out.

Q. You think these are not the same as you catch off the north of the island?—A. No, I don't.

Q. Do you think your opinion is general?—A. Yes, sir.

Here are a few extracts from the evidence on file:

Archibald B. Skinner, inspector of fish at Port Hastings, Cape Breton, has been 32 years engaged in the fishing business, and has been a practical fisherman:

During the Reciprocity Treaty a large fleet of American fishing-vessels came to this coast during the summer season to carry on a fishing business. The number increased during the treaty, until at the termination a fleet numbering hundreds of vessels were engaged in fishing around the coast of Nova Scotia, Cape Breton, Prince Edward Island, and the Magdalen Islands. These principally took mackerel and codfish, but they took other fish as well.

A large portion of the American fishing-fleet is now going every year up the eastern side of Cape Breton, and fishing in the vicinity of Scatarie, Cape North, and the sections around there. I understand that these grounds are very rich in fish.

To reach these localities they are under no necessity whatever of passing through the Gut of Canso. They may, directly after they come from the Bay of Fundy, either pass along the coast of Nova Scotia and reach the Gulf by way of the northern part of Cape Breton, or pass north in the vicinity of Newfoundland.

George C. Lawrence, merchant, Port Hastings:

Not nearly all the American fishing-vessels passing through the Straits of Canso are noted or reported. A great number pass through every year that have never been noted or reported at all.

The Newfoundland herring-fleet from American ports go thither along the eastern side of Cape Breton instead of passing through the straits, and toward the latter part of the season large quantities of the most valuable mackerel are taken by Americans on the eastern shore of Cape Breton, between Cape North and Louisburg, and thereabouts.

Alex. McKay, merchant, North Sydney, Cape Breton:

None of the codfish-vessels, to my knowledge, go through the Strait of Canso. They come around the southern and eastern coast of Cape Breton, and many mackerelmen do the same. Mackerelmen fish around by Scatarie, and it is therefore shorter for them to come round by the southern and eastern sides of the Island of Cape Breton.

James McLeod, master mariner, Cape Breton:

Last summer I fished from Cape North to Scatarie, during the cod season, and saw at that season great numbers of American fishermen there engaged in fishing. Within the last two years I have seen many American fishermen, from Cape North to Scatarie, engaged in mackerel fishing, and have seen at one time between twenty and thirty American fishermen so engaged within sight, and think that there would be in that vicinity at one time about one hundred.

William Nearing, fisherman, Main-a-Dieu, Cape Breton :

All the codfish and halibut fishermen come around the southern and eastern coasts of Cape Breton, and do not run through the Strait of Canso. During the past five or six years I have seen, on an average, upwards of one hundred American fishing-vessels each year around in this vicinity.

William Edward Gardiner, merchant, Louisburg :

The American vessels which come here do not pass through the Strait of Canso.

Thomas Lahey, fisherman, Main-à-Dieu, Cape Breton :

I have seen in one day from fifty to sixty of these American vessels. These American vessels came round the southern coast of Cape Breton and did not run through the Strait of Canso. During the past five or six years I have seen on an average during the fishing season over a hundred American fishing vessels in and near the waters where I fished, and I have often found it difficult to keep out of their way. Those American vessels take all kinds of fish—mackerel, codfish, and halibut. On board these vessels there are from sixteen down to ten men on each.

Isaac Archibald, merchant, Cow Bay, Cape Breton :

The Americans in this bay have often practiced throwing bait overboard, and thus enticing the mackerel off shore.

John Peach, fisherman, Cow Bay, Cape Breton, fished from Cape North to Scatarie, and in Cow Bay :

The Americans fish from three miles off shore close up to the land for mackerel, and come in among us inshore fishermen and take the fish away from us.

James Fraser, master mariner, Sydney :

During the past ten years I have seen one hundred and sixty American vessels fish in Sydney Harbor for mackerel in one day, and large fleets of American fishing vessels visit our harbor every day for the purpose of catching mackerel during the mackerel season year after year.

John Ferguson, Cow Bay, Cape Breton :

I have seen from forty to fifty American vessels pass through the "Kittle" between Scatarie and Main-à-Dieu in one day.

John Murphy, fisherman, Linga, Cape Breton :

During the past five or six years I have caught mackerel inshore around Linga Harbor, and last year I have seen from ten to fifteen sail of American vessels engaged in taking mackerel.

The American mackerelmen who fish around here come around the southern and eastern coasts of Cape Breton, and all the codfish and halibut fishermen come around the same way.

Angus Matheson, fisherman, Sydney, Cape Breton :

I have caught them in Sydney Harbor, until the bottom of the boat touched the ground. The Americans always come inshore for the mackerel, and when they did not fish them inshore they baited them off to beyond the three miles.

At a time when the imaginative faculties of the learned American Agent and counsel had not been appealed to by their government—at a time when it had not yet been discovered that the Americans derived their title to our fisheries from the achievements of a Massachusetts army and navy—our American friends had another basis to rest their claim, also not to be found in the treaties. Until quite recently, American fishermen were under the firm impression that the mackerel was an American-born fish, from the neighborhood of Newport, Rock Island, Cape Henlopen, Cape May, and other places on the American coasts, which were and are spawning grounds. Under that notion, whatever mackerel was to be found in Canadian waters were nothing but the migrating product of the fertile American coasts. That theory was touchingly impressed upon the minds of the Joint High Commissioners during the winter and in the early spring which preceded the Washington Treaty. The mackerel of the Canadian waters were represented as a

species of strayed chicken or domestic duck and pigeon which the owner had the right to follow on his neighbor's farm. At that time they had no interest at all in depreciating our fish, for Canadian mackerel were then quoted at the highest rates on the markets of Gloucester and Boston; this was avowedly the case. They had even prepared statistics for the Centennial, in which these fish were at the highest price quoted on these markets, because it was only the prodigal son which was thus offered. These fish were considered then their property, and why should they endeavor to depreciate the value of their property! Some of the British Joint High Commissioners, under this strong assertion of right, felt a deep commiseration for the proprietor of the poultry in being restricted to certain grounds in the execution of a search-warrant for the recovery of his property; and, in order to repair the cruelties of the Convention of 1818, they were—like a facetious American writer—prepared to sacrifice all their wives' relatives to do something at our expense for the United States as an atonement for that long injustice.

While these notions were prevalent, our American friends had no interest in depreciating a property which constructively was their own. In a long article on the fisheries, published in the *New York World* of the 15th April, 1871, not quite a month before the signing of the Washington Treaty, evidently written by a well-informed person, we read the following:

About the middle of April, or the 1st of May, the mackerel fleet makes the first trip of the season to off Newport, Rock Island, Cape Henlopen, and Cape May; and if they have good luck, may get as much as 200 barrels to each vessel. Those are all, however, poor fish, only ranking as No. 2, and sometimes not even that. A little later in the season, say in June, and far northward, "No. 2" fish are caught, but it is not until the middle and latter part of August, that up in the Bay of Chaleur, off Prince Edward Island, and off the Magdalen Islands, in Canadian waters, the finest and fattest fish, both Nos. 1 and 2, are caught. From the time they are first struck in the Bay of Chaleur, the mackerel move steadily southward until they leave Canadian waters and are off Maine and Massachusetts, the fishermen, both American and Canadian, following them.

As already said, this idea of a migrating mackerel prevailed until Professor Baird, of the Smithsonian Institute, Washington, and other specialists, destroyed it by asserting that the mackerel was a steady and non-migrating squatter; that what was found on the American coasts was born there, and remained there, in a pretty limited circle of motion induced by necessity of finding food; that what was caught in Canadian waters was also born and had there its habitat in similar conditions of circumnavigation for food, or to escape from predacious fish. From the moment our friends discovered that the fish which were caught in the bay were Canadian fish, these lost with them all prestige. From that moment, Canadian markets lost all consideration and credit in the minds of many. American witnesses, heard in the case, called our mackerel trash, others invented a contemptuous word to describe its rank inferiority, and called it eel-grass mackerel, something hardly good for manure, almost unfit for quotation on the market of the United States.

We do not claim such marked superiority for Canadian mackerel as was attributed to them when supposed to be of American growth; but the evidence fairly weighed shows that, while both shores have good, indifferent, and inferior mackerel at times, as a whole, the gulf mackerel have commanded a higher price on the American market than American-caught mackerel; and in a run of years the quantity caught in the gulf was, as well as quality, superior to American-shore mackerel.

In order to see whether there is any difference between Canadian and American mackerel, I appeal to the statement produced here by Mr.

Low, unknowingly, I think, because he put his hand in the wrong pocket at the time and drew out a statement prepared for the Centennial, showing that our mackerel, which had been described as being of such inferior quality, netted 50 per cent. more than the American mackerel in the market.

The valuation which this Commission is called upon to make of the respective advantages resulting from the treaty can hardly be based on an arithmetical appreciation of the quantity of fish caught by Americans in the three-mile limit, although the evidence given on this point cannot but assist the Commissioners in forming their opinion. No tribunal of arbitration probably ever had to deal with such variable and uncertain elements; and if the Commission were left without anything to guide them towards a port of refuge, they would be left on a sea of vagueness as to amount. Fortunately they will find in the case an anchor, something of a definite character to guide them. During the Conferences of the Joint High Commission, the representatives of the United States offered to add to fish and fish-oil, as additional compensation, the admission, free of duty, of coal, salt, and lumber. The annual value of the duty on these articles in the United States, taking an average of the period from 1864 to 1875, would be :

	Value.	Duty.
Coal.....	\$773,645	\$190,886
Salt.....	91,774	46,182
Timber and lumber.....	7,345,394	1,083,609
		<hr/> 1,330,677

Which gives for the twelve years of the treaty the sum of \$15,848,125. The annual value of the duties in Canada on these articles, taking an average of the same period, would be :

	Value.	Duty.
Coal.....	\$1,196,469	\$8,491
Salt.....	92,332	248
Timber and lumber.....	500,085	6,874
		<hr/> 15,613
American duties.....		\$15,848,124
Canadian do.		<hr/> 187,356

The balance in favor of Canada would therefore be..... 15,660,768

If the matter had been settled on that basis, it does not mean that Canada would have received \$15,660,768 as a direct compensation paid into her Treasury, but according to the theory adopted by American statesmen it would have to cost that sum to have acquired those fishing privileges.

In the estimation of the evidence adduced on both sides; I admit that there is apparently a conflict of views and facts; but when weighed in the scales of an expert, by a judge or lawyer accustomed to winnow the chaff from the grain, the discrepancies would turn out more fictitious than real. We have built by a mass of witnesses and documents unsailable, the foundations of our claim. In many instances we have obtained from American writers, reports, and witnesses, the confirmation of that substantial part of our case which consists in the value of our fisheries, both to our people and for the American nation. The *ex parte* portion of our evidence, consisting in the affidavits, has been fully sustained by the oral evidence. Generally our witnesses have been selected among citizens, whose station in life and well-established character, gave moral authority to their statements; and we could challenge our

friends on the American side to point out the deposition of one witness who had to correct his examination-in-chief when cross-examined. Can we say the same thing of a large number of American witnesses, without imputing to any of them the desire of stating an untruth? They have, as a rule, shown themselves so completely blinded by their national prejudices, that they have, unwittingly to themselves, been induced to give to most of their statements a color which would have been in an ordinary court of justice easily construed as a determined misrepresentation of facts. As an example of the reckless manner in which some of the American witnesses have spoken of the relative value of the fishing privileges granted by the Treaty of Washington, we refer to the 21st American affidavit, subscribed to by Frank W. Friend and Sydney Friend, of the firm of Sydney Friend & Bro., Gloucester, and sworn to before one of the most important witnesses before this Commission, David W. Low, notary public and postmaster of Gloucester, who could not ignore, and perhaps, wrote himself this affidavit. In answer to the 34th question (p. 53): "The amount of remission of duties on Canadian fish, and the free market of the United States for their mackerel and other fish, saving the expense of cutters, and the benefits of a large trade from the American vessels, the admission to our coasts for menhaden and mackerel, will aggregate an advantage of nearly two million dollars a year in gross amount." I may here mention the fact that two other witnesses wrote at full length the amount "two hundred millions." (Affidavits 18 and 19:) "For this we obtain the privilege of pursuing a fishery, which, after deducting expenses, will not net to the American fishermen ten thousand dollars a year."

The United States Agent and counsel, who have made a successful effort to exclude from the consideration of this Commission the commercial advantages resulting from the purchase of bait and supplies, and of transshipping cargoes on our coast, have thought proper to collect a mass of evidence to prove the commercial advantages resulting to British subjects from the Washington and Reciprocity Treaties. For instance, Messrs. R. V. Knowlton and Edward A. Horton, of Gloucester, value at \$200,000 per year the bait sold by Canadians to Americans; and at half a million dollars per year the goods sold to Americans for refitting.

The principal witnesses brought from Gloucester came here with such prejudiced minds, not to say worse, that their examination-in-chief seemed like an attempt to blind this Commission with one-sided statements, from which, at first sight, evolved a mystery which took us some time to penetrate. Taking their figures as they first gave them, it seemed a piece of folly for any American fishermen to have attempted, more than once or twice, to have fished in British waters, as the result of each trip constituted a net loss—the quantity of fish taken being almost insignificant, and in quality unfit for the American market. Their statistics were arranged to create that impression. The statistics with the names of several firms who had pursued such an unprofitable business for a period of twenty-five and thirty years consecutively were furnished. We could not find in our experience of things and men, an obstinacy of that magnitude in mercantile affairs. The cross-examination of these witnesses, extracted piecemeal, presented these transactions under a different aspect, and it turned out, after all, that the Gloucester vessel owners and fishermen had had all along more sense than the witnesses wanted us to suppose—it turned out that the fish caught in our waters were highly remunerative in quality, and was in quality branded

in the Boston and Gloucester markets far above the American shore mackerel.

I have now done with this portion of my subject, and I have said all I have to say with reference to the evidence brought in support and in contradiction of the British Case; and I now desire to deal briefly with what has been pleaded as an offset to our claim.

When we come to deal with the privileges granted by the Americans to the subjects of Her Majesty in British North America, we find them to be of two kinds:

1st. Right to fish on the southeastern coast of the United States to the 39th parallel of north latitude.

2d. The admission, free of duty, of fish and fish-oil, the produce of British North American fisheries into the United States market.

As to the privilege of fishing in American waters, this Commission will have very little difficulty in disposing of it. In the first instance it has been proved that the most of the fish to be found in these waters are caught 30 and 90 miles off shore, almost exclusively on George's Bank, and the British fishermen would not derive their right of fishing there from treaties; but from international law. In the second place no British subject has ever resorted to American waters, and the province of the Commissioners being limited to twelve years, to be computed from the 1st July, 1873, there is no possibility to suppose that they will ever resort to these waters, at least during the treaty. There remains then but one item to be considered, as constituting a possible offset, that is the admission, free of duty, of Canadian fish and fish-oil. This raises several questions of political economy, which will be better dealt with by my colleague who is to follow me, and I will limit myself to say that if the question, now under consideration, were pending between the fishermen of the two countries, individually, this would suggest views which cannot be entertained as between the two governments.

The controverted doctrines between free traders and protectionists as to who pays the duty under a protective tariff, whether it is the producer or consumer, seems to be solved by this universal feature, that, in no country in the world, has the consumer ever started and supported an agitation for a protective tariff; on the contrary we find every where directing and nursing the movements of public opinion on this matter, none but the producers and manufacturers. This cannot be explained otherwise than that the manufacturer receives in addition to a remunerative value for his goods the amount of duty as a bonus which constitutes an artificial value levied on the consumer. It is in most instances the consumer that pays the whole amount of the duty. In a few cases there may be a proportion borne by the producer and there is no process of reasoning or calculation to determine that proportion. When duties are imposed on articles of food which cannot be classed among luxuries there seems to be no possibility of a doubt that the whole duty is paid by the consumer. Salt cod or mackerel will never be called luxuries of food. A duty imposed upon such articles has had the effect of raising their cost far above the amount of duty, and had thereby the effect of increasing the profit of the producer at the expense of the consumer. For instance, a barrel of mackerel which would have brought \$10 when admitted free, will bring \$14 under a tariff of \$2 per barrel; and statistics will be laid before the Commissioners to prove that fact, which I will not undertake to explain. This being so, however, would it be equitable to subject the Canadian Government to the payment of an indemnity to the United States for providing American citizens with a cheap and wholesome article of food when it is evident that the

Canadian fishermen have, as a rule, been benefited by the existence of an American duty on the product of their fisheries? The Government of the Dominion any more than its inhabitants have not suffered in an appreciable manner from the imposition of duties on fish, and the remission of that duty has been profitable only to the consumers of the United States or to the merchant who re-exports Canadian fish to foreign countries. We may, therefore, conclude that in a fiscal or pecuniary point of view the remission of duty almost exclusively profits the citizens of the United States. The admission of the United States fishermen to British waters at this period is pregnant with advantages unknown under the Reciprocity Treaty. Of late numerous new lines of railway have been built in all the British provinces bordering or in the immediate neighborhood of the United States, especially in the Provinces of Quebec, New Brunswick, P. E. Island, and Nova Scotia. A new industry consisting in the carrying of fresh fish all over the continent as far as California has sprung up of late. With the confessed exhaustion of most of the American sea fisheries this industry must find the largest part of its supplies in British waters.

To these varied advantages must be added the political boon conferred upon the United States, of allowing them to raise and educate, in the only possible school, that class of seamen which constitutes the outer fortification of every country, and of protecting her against the advance of her enemies on the seas. Would it not be a monstrous anomaly, if, by means of an indirect compensation, under the name of offset, the Canadian Government should be taxed for creating a United States navy from which alone Canadians might entertain apprehensions in the future? I am sure any tribunal would pause before committing such a flagrant act of injustice. Your honors will remember, I am certain, that although the Treaty of Washington is apparently made for a period of twelve years, it might become the starting point of a perpetual treaty of peace, if not stained by the verdict of this Commission, as an iniquitous instrument. It is, on the contrary, to be hoped that future diplomats will find, both in our proceedings and in the award, the elements upon which to base an everlasting adjustment, which will forever settle the question of the British North American fisheries. On presenting such a result to the three governments interested in this matter, we would collectively and individually feel proud of having been associated with this international trial.

I cannot close these remarks without acknowledging the valuable aid I have received from Professor Hind's book, filed in this case. As a specialist, in the several branches of science connected with this case, he elucidated several grave questions, and gave the key to a great part of the evidence. My learned friend and esteemed colleague, Mr. Weatherbe, with whom I more particularly consulted, and who was so well acquainted with every spot in Nova Scotia, directed my attention to those parts of the evidence which brought in relief the advanced post occupied by this province in the fisheries. To both, I here tender my most cordial thanks. The inexhaustible patience and endurance of your honors during these proceedings, extending over a period of five months, were only equalled by the exquisite urbanity and kindness with which we have all been treated. To my other British and American confreres before the Commission, I wish to express a feeling of fellowship which I will forever cherish. The American and British Agents and the Secretary will also be associated in my remembrance with one of the most pleasant incidents of my life, enlivened by their sincerity of purpose, and the uniform good will they have brought to bear in the discharge of their onerous duties.

IX.

FINAL ARGUMENT OF MR. THOMSON ON BEHALF OF HER BRITANNIC MAJESTY.

MONDAY, November 19.

The Conference met.

May it please your excellency and your honors :

It has now become my duty, after this long and tedious inquiry has been concluded, as far as the evidence is concerned, to present the final argument on behalf of Her Majesty's Government. I could wish, in view of the great importance of the issue, that the matter had been placed in abler hands. I shall not go very much into the historical question which has been involved in this inquiry, because my learned friends who preceded me have gone fully into that; and, although I dissent from some of the views presented by the learned counsel for the United States, and may, incidentally, in the course of my remarks, have occasion to state some particulars of that dissent, I do not think there is anything that calls upon me consider the subject at length.

There was one matter which, if I may use the expression of my learned friend, the Agent of the United States, at one time appeared likely to loom up with very great importance. I refer to the headland question. I feel that I can congratulate this Commission that, for the purpose of their decision upon the subject submitted to them, that question does not assume any importance whatever in this inquiry. But I wish to guard myself distinctly from assenting to the view presented by Mr. Foster, when alluding to that subject. He rather appeared to assume that, for practical purposes, this headland question had been abandoned by Her Majesty's Government, and that the mode of conducting this inquiry, on the part of the counsel for Her Majesty's Government, showed such an abandonment. I beg to set my learned friends on the other side right upon that matter. There has been no abandonment whatever. It only comes to this: that in this particular inquiry the evidence has so shaped itself, on either side, that your excellency and your honors are not called upon to pronounce any opinion on the subject. There can be no doubt that, under the terms of the treaty, your excellency and honors are not empowered to pronounce any authoritative decision, or effect any final settlement of that much-vexed question.

Incidentally, no doubt, it might have fallen within your province to determine whether the contention of the British or of the American Government, in reference to that question, were the correct one; because, had it been shown that large catches had been made by the American fishermen within the bodies of great bays, such as Miramichi and Chaleurs, it would have become at once necessary to come to a decision as to whether we were entitled to be credited with those catches. But, in fact, no such evidence has been given. And that course was taken somewhat with the view of sparing you the trouble of investigating that question, when the treaty did not empower you to effect a final decision of it. The learned counsel, associated with me on behalf of Her Majesty's Government, and myself, shaped our evidence as much as possible with reference to the inshore fisheries. We concluded that if the American Government, who had put this matter prominently forward in their brief, intended to challenge a decision from this Commission, they ought to have given evidence of large catches made by their

vessels in those bays. They have not done so. The evidence on our side has shown that, to a very great extent, the value of the fisheries is inshore; that, undoubtedly, very large catches could be made in the bodies of those bays, and that the fish frequent the body of the bays as well as the portion within three miles from the contour of the coast all around those bays; but we tendered evidence chiefly with relation to the fisheries within three miles of the shore, by no means intending to have it understood—in fact, we expressly disclaimed the intention of having it understood—that there were not in the bodies of those bays valuable fisheries. I can only say, however, that before this Commission there is no evidence of that, and you may dismiss it, therefore, from your minds. When this headland question shall hereafter arise, if it should unfortunately arise, then I beg to say that the position laid down when the Convention of 1818 was made, has since been in no way departed from. My learned friends on the other side point to the Bay of Fundy. They say, there is a bay which Great Britain contended came within the Convention of 1818, and yet she was obliged, in consequence of the decision given by Mr. Bates, in the case of the Washington in 1854, to recede from that position in reference to that bay. I beg to say that Great Britain did not recede. It was stated on the other side that it was *res adjudicata*. I say it is not. It is wholly improbable that the Bay of Fundy will ever again become a matter of contest between the two nations; but the fact in regard to that case is, that Great Britain gave the United States the right to do in that bay that which answered their purpose quite as well as if she had abandoned her claim. She relaxed any claim that she had by the Convention of 1818, and that relaxation has never been departed from, and in all human probability never will be departed from for all time to come. *But it is relaxation, and nothing else.*

My learned friend rather assumed than distinctly stated, that the decision in regard to the Bay of Fundy would have considerable weight in reference to other bays. I deny that. Great Britain expressly guarded herself against any such construction. And, moreover, she guarded herself against another construction placed upon the negotiations between the two governments, viz, that the Gut of Canso was common to the two nations. The British Government, so far as I am informed—I have no special knowledge on the subject, except that afforded by the correspondence and negotiations between the two governments—emphatically deny that doctrine. The Gut of Canso is a *mare clausum*, belonging to Great Britain—to the Dominion of Canada. It is a strait on either side of which is the territory of the Dominion. There is no foreign shore to that strait. It is not necessary for me to argue, nor shall I argue, what would be the effect on the international question, assuming the Gulf of St. Lawrence to be an open sea, whose waters could be traversed by the keels of other nations, and to which the Gut of Canso was the only entrance. How far the position I assume might be modified, if that were the case, I shall not consider; but such is not in fact the case. There is another entrance north of the island of Cape Breton, and also one by the Straits of Belleisle.

In connection with this subject, permit me to call your attention to the instructions issued by the British Government to the Admiralty, immediately after the Reciprocity Treaty had been abrogated by the United States.

These instructions are dated April 12, 1866, and were issued by Mr.

Cardwell, then Secretary of State for the Colonies, to guide the fleet about to protect the British North American fisheries :

It is, therefore, at present the wish of Her Majesty's Government neither to concede nor, for the present, to enforce, any rights in this respect which are in their nature open to any serious question. Even before the conclusion of the Reciprocity Treaty, Her Majesty's Government had consented to forego the exercise of its strict right to exclude American fishermen from the Bay of Fundy, and they are of opinion that during the present season that right should not be exercised in the body of the Bay of Fundy, and that American fishermen should not be interfered with, either by notice or otherwise, unless they are found within three miles of the shore, or within three miles of a line drawn across the mouth of a bay or creek which is less than ten geographical miles in width, in conformity with the arrangement made with France in 1839.

American vessels found within these limits should be warned that by engaging or preparing to engage in fishing, they will be liable to forfeiture, and should receive the notice to depart which is contemplated by the laws of Nova Scotia, New Brunswick, and Prince Edward Island, if within the waters of one of these colonies under circumstances of suspicion. But they should not be carried into port except after wilful and persevering neglect of the warnings which they may have received, and in case it should become necessary to proceed to forfeiture, cases should, if possible, be selected for that extreme step in which the offense of fishing has been committed within three miles of land.

Her Majesty's Government do not desire that the prohibition to enter British bays should be generally insisted on, except when there is reason to apprehend some substantial invasion of British rights. And in particular, they do not desire American vessels to be prevented from navigating the Gut of Canso (from which Her Majesty's Government are advised they may be lawfully excluded), unless it shall appear that this permission is used to the injury of colonial fishermen, or for other improper objects.

I have it in command to make this communication to your lordships as conveying the decision of Her Majesty's Government on this subject.

I have, &c.,

EDWARD CARDWELL.

I quote these instructions and make these observations in order that hereafter it may not be said that the views expressed by the American counsel in regard to the Bay of Fundy and the Gut of Canso were acceded to by being passed *sub silentio* by the counsel for Great Britain.

With these preliminary observations, I shall return to the main question, and here I may say that some weeks back, when your excellency and honors arrived at the conclusion that this inquiry should be closed by oral instead of written arguments, I foresaw that great difficulties must occur if counsel were expected to do what counsel ordinarily do whilst closing cases in courts of justice. If the immense mass of testimony, covering many hundreds of pages, together with the voluminous appendices and addenda to the evidence, were to be gone over and the relative value of the testimony on either side to be weighed, it seemed certain that the several speeches closing this case, on either side, must necessarily extend over weeks. I had some curiosity, when my learned friend, Mr. Foster, commenced his address—and a very able one it was—to see in which way he would treat this matter, and whether or not he would attempt to go over all this evidence. He quite reassured me when he said :

A great mass of testimony has been adduced on both sides, and it might seem to be in irreconcilable conflict. But let us not be dismayed at this appearance. There are certain landmarks which cannot be changed, by a careful attention to which I think we may expect to arrive at a tolerably certain conclusion.

I thought he had made an epitome of the evidence, and had attempted to sift it, but I was "dismayed" afterwards, when I discovered that, so far from considering himself bound by the testimony, he conveniently ignored nearly the whole of the British evidence, and that the small portions to which he did refer, he was pleased to treat in a way that did much more credit to his ingenuity as an advocate, than to his spirit of fair dealing with the witnesses. I therefore did not feel at all relieved by his course. Throughout his speech, as I shall show, there have been

a series of assumptions, without the slightest evidence on which to base them. It was a most admirable speech in every respect, but one. It had little or no foundation in the facts proved. It was an admirable and ingenious speech, I admit, and the same may be said of the speeches of his learned colleagues. It was an admirable speech in a bad cause. Fortunately, I feel that I am not here for the purpose of measuring my strength as an advocate against that of Judge Foster. Were it so, I am very much afraid I should go to the wall. But I have just this advantage over him, as I think I shall satisfy you before I have done, that my cause could not be injured even by a bad advocate; and I think I shall show you that his cause has been made the very best of by a wonderfully good advocate.

Now, I think that probably the proper course for me to take, is to go through those speeches, and after having done so, to turn your attention somewhat to the evidence. I take the very pleasant and humorous speech of my learned friend Mr. Trescot, which certainly gave me a great deal of amusement, and, I humbly conceive, put me very much in the position of the man who was beaten by his wife, and who, being remonstrated with by his friends for permitting it, said that it pleased her and didn't hurt him. The speech of my learned friend pleased him, and didn't hurt us a bit. I will show why. In the course of his argument he referred to a minute of the Privy Council of Canada, made in answer to Earl Kimberly shortly after the Treaty of 1871 was negotiated between the two countries. Mr. Trescot laid great stress upon the fact that this was not a treaty between the United States and Canada, but that it was a treaty between the United States and England. No person disputes that proposition. It is not doubted. But I suppose that no person will dispute the fact that, although England is nominally the party to the treaty, the Dominion of Canada is vitally interested in the result of this Commission.

There is just this difference between this treaty and an ordinary treaty between the United States and England, that, by its very terms, it was wholly inoperative as regards the British North American possessions, unless it were sanctioned by the Dominion Parliament and the legislature of Prince Edward Island, which at that time was not a part of the Dominion. In this respect it differed from an ordinary treaty, inasmuch as by the very terms of the treaty the Dominion of Canada had a voice in the matter. But I am willing to treat the matter as Mr. Trescot has been pleased to put it, as one between England and the United States alone, as the High Contracting Parties. You will recollect that, in the Answer to the British case, it was put prominently forward that this treaty was not only a boon to the Dominion, but that it was so great a boon that the premier of this Dominion, in his place in Parliament, made a speech to that effect, which is quoted at length in the Answer. Now, it may be right enough to quote the statements of public men in each of the countries. They are representative persons, and may be supposed to speak the language of their constituencies. Therefore I do not complain of their words being quoted. But I was surprised when, in the course of this inquiry, it was argued—I do not know whether it was by Mr. Foster or by one of the learned gentlemen associated with him—that these speeches were calm expressions of opinion by gentlemen not heated in any way by debate. It struck me that that was a curious way in which to characterize a debate in the House of Commons, upon a question vital to the existence of the ministry for the time being. I thought that was just a case where we had a right to expect that the speeches delivered on either side would probably par-

take of a partisan character, and not only so, but that it was inevitable that the government speakers would use the strongest arguments they could in defense of the action of their leader, even though their arguments weakened the case of their country in an international point of view. Had my learned friends been content to put forward these speeches in their Answer, and quote them for the purpose of argument, there would have been nothing to say beyond this, that when Sir John A. Macdonald and others talked about the fisheries they were speaking of what they knew nothing about. They had no practical knowledge whatever. What practical knowledge of the matter had any of us around this table before hearing the evidence? None whatever. And yet, can it be that Sir John A. Macdonald, Dr. Tupper, Mr. Stewart Campbell, or anybody else who made speeches, and whose remarks have been quoted, had a tithe of the information that we now possess? Therefore, I think that we may dismiss the whole of those speeches by saying, without meaning anything discourteous, that they were talking about matters of which they knew nothing, and therefore that their speeches ought to have no weight with this Commission. But Mr. Tresscot has relieved me from using even that argument, for he has referred to this minute of council, which I hold in my hand, passed in the very year in which the Washington Treaty was negotiated, and before the legislature of Canada had adopted it. And I wish to call the attention of the Commission to the fact that the whole privy council were present, including Mr. Peter Mitchell, the then minister of marine and fisheries, and especially to the fact that Sir John A. Macdonald was present. The minute is as follows:

PRIVY COUNCIL CHAMBER,
Ottawa, Friday, July 28, 1871.

Present: The Hon. Dr. Tupper, in the chair; the Hon. Sir John A. Macdonald, the Hon. Sir George Et. Cartier, the Hon. Mr. Tilley, the Hon. Mr. Mitchell, the Hon. Mr. Campbell, the Hon. Mr. Chapais, the Hon. Mr. Langevin, the Hon. Mr. Howe, the Hon. Sir Francis Hincks, the Hon. Mr. Dunkin, the Hon. Mr. Aikins.

To His Excellency the Right Honorable John Baron LISGAR,
G. C. B., G. C. M. G., P. C.,
Governor-General of Canada, &c., &c., &c.:

May it please your excellency:

The committee of the Privy Council have had under their consideration the Earl of Kimberley's dispatch to your excellency, dated the 17th June ultimo, transmitting copies of the treaty signed at Washington on the 8th May last by the Joint High Commissioners, and which has since been ratified by Her Majesty and by the United States of America; of the instructions to Her Majesty's High Commissioners, and of the protocols of the conference held by the Commission; and likewise the Earl of Kimberley's dispatch of the 20th of June ultimo, explaining the failure of Her Majesty's Government to obtain the consideration by the United States Commissioners of the claims of Canada for the losses sustained owing to the Fenian raids of 1866 and 1870.

The committee of the Privy Council have not failed to give their anxious consideration to the important subjects discussed in the Earl of Kimberley's dispatches, and they feel assured that they will consult the best interests of the empire by stating frankly, for the information of Her Majesty's Government, the result of their deliberations, which they believe to be in accordance with public opinion in all parts of the Dominion.

The committee of the Privy Council readily admit that Canada is deeply interested in the maintenance of cordial relations between the Republic of the United States and the British Empire, and they would therefore have been prepared without hesitation to recommend the Canadian Parliament to co-operate in procuring an amicable settlement of all differences likely to endanger the good understanding between the two countries. For such an object they would not have hesitated to recommend the concession of some valuable rights, which they have always claimed to enjoy under the Treaty of 1818, and for which as the Earl of Kimberley observes, Her Majesty's Government have always contended, both governments having acted on the interpretation given to the treaty in question by high legal authorities. The general dissatisfaction which the publication of the Treaty of Washington has produced in Canada, and which has been expressed with as much force in the agricultural districts in the west as in the maritime provinces, arises chiefly from two causes:

1st. That the principal cause of difference between Canada and the United States has not been removed by the treaty, but remains a subject for anxiety.

2dly. That a cession of territorial rights of great value has been made to the United States, not only without the previous assent of Canada, but contrary to the expressed wishes of the Canadian Government.

The committee of the Privy Council will submit their views on both those points for the information of Her Majesty's Government, in the hope that by means of discussion a more satisfactory understanding between the two governments may be arrived at. The Earl of Kimberley has referred to the rules laid down in Article 6 of the Treaty of Washington, as to the international duties of neutral governments, as being of special importance to the Dominion: but the committee of the Privy Council, judging from past experience, are much more apprehensive of misunderstanding, owing to the apparent difference of opinion between Canada and the United States as to the relative duties of friendly states in a time of peace. It is unnecessary to enter into any lengthened discussion of the conduct of the United States during the last six or seven years, with reference to the organization of considerable numbers of the citizens of those States under the designation of Fenians. The views of the Canadian Government on this subject are in possession of Her Majesty's Government; and it appears from the Protocol of Conference between the High Commissioners that the British Commissioners presented the claims of the people of Canada, and were instructed to state that they were regarded by Her Majesty's Government as coming within the class of subjects indicated by Sir Edward Thornton in his letter of 26th January last, as subjects for the consideration of the Joint High Commissioners. The Earl of Kimberley states that it was with much regret that Her Majesty's Government acquiesced in the omission of these claims from the general settlement of outstanding questions between Great Britain and the United States; and the committee of the Privy Council, while fully participating in that regret, must add that the fact that this Fenian organization is still in full vigor, and that there seems no reason to hope that the United States Government will perform its duty as a friendly neighbor any better in the future than in the past, leads them to entertain a just apprehension that the outstanding subject of difference with the United States is the one of all others which is of special importance to the Dominion. They must add that they are not aware that during the existence of this Fenian organization, which for nearly seven years has been a cause of irritation and expense to the people of Canada, Her Majesty's Government have made any vigorous effort to induce the Government of the United States to perform its duty to a neighboring people, who earnestly desire to live with them on terms of amity, and who during the civil war loyally performed all the duties of neutrals to the expressed satisfaction of the Government of the United States. On the contrary, while, in the opinion of the government and the entire people of Canada, the Government of the United States neglected, until much too late, to take the necessary measures to prevent the Fenian invasion of 1870, Her Majesty's Government hastened to acknowledge, by cable telegram, the prompt action of the President, and to thank him for it. The committee of the Privy Council will only add, on this painful subject, that it is one on which the greatest unanimity exists among all classes of the people throughout the Dominion, and the failure of the High Commissioners to deal with it has been one cause of the prevailing dissatisfaction with the Treaty of Washington.

The committee of the Privy Council will proceed to the consideration of the other subject of dissatisfaction in Canada, viz. the cession to citizens of the United States of the right to the use of the inshore fisheries in common with the people of Canada. The Earl of Kimberley, after observing that the Canadian Government took the initiative in suggesting that a joint British and American Commission should be appointed, with a view to settle the disputes which had arisen as to the interpretation of the Treaty of 1818, proceeds to state that "the causes of the difficulty lay deeper than any question of interpretation," that "the discussion of such points as the correct definition of bays could not lead to a friendly agreement with the United States," and that "it was necessary therefore to endeavor to find an equivalent which the United States might be willing to give in return for the fishery privileges."

In the foregoing opinion of the Earl of Kimberley, the committee of the Privy Council are unable to concur, and they cannot but regret that no opportunity was afforded them of communicating to her Majesty's Government their views on a subject of so much importance to Canada, prior to the meeting of the Joint High Commission.

When the Canadian Government took the initiative of suggesting the appointment of a joint British and American Commission, they never contemplated the surrender of their territorial rights, and they had no reason to suppose that Her Majesty's Government entertained the sentiments expressed by the Earl of Kimberley in his recent dispatch. Had such sentiments been expressed to the delegate appointed by the Canadian Government to confer with his lordship a few months before the appointment of the Commission, it would at least have been in their power to have remonstrated against the cession of the inshore fisheries; and it would moreover have prevented any member of the Canadian Government from acting as a member of the Joint High Commission, unless on the clear understanding that no such cession should be embodied in the treaty without their consent. The expediency of the cession of a common right to the inshore fisheries has been defended on the ground that such a sacrifice on the part of Canada should be made in the interests of peace. The committee of the Privy Council, as they have already observed, would have been prepared to recommend

any necessary concession for so desirable an object, but they must remind the Earl of Kimberley that the original proposition of Sir Edward Thornton, as appears by his letter of 26th January, was that "a friendly and complete understanding should be come to between the two governments as to the extent of the rights which belong to the citizens of the United States and Her Majesty's subjects respectively, with reference to the fisheries on the coasts of Her Majesty's possessions in North America."

In his reply, dated 30th January last, Mr. Secretary Fish informs Sir Edward Thornton that the President instructs him to say that "he shares with Her Majesty's Government the appreciation of the importance of a friendly and complete understanding between the two governments with reference to the subjects specially suggested for the consideration of the proposed Joint High Commission."

In accordance with the explicit understanding thus arrived at between the two governments, Earl Granville issued instructions to Her Majesty's High Commission, which, in the opinion of the committee of the Privy Council, covered the whole ground of controversy.

The United States had never pretended to claim a right on the part of their citizens to fish within three marine miles of the coasts and bays, according to their limited definition of the latter term; and although the right to enjoy the use of the inshore fisheries might fairly have been made the subject of negotiation, with the view of ascertaining whether any proper equivalents could be found for such a concession, the United States was precluded by the original correspondence for insisting on it as a condition of the treaty. The abandonment of the exclusive right to the inshore fisheries, without adequate compensation, was not, therefore, necessary in order to come to a satisfactory understanding on the points really at issue.

The committee of the Privy Council forbear from entering into a controversial discussion as to the expediency of trying to influence the United States to adopt a more liberal commercial policy. They must, however, disclaim most emphatically the imputation of desiring to imperil the peace of the whole empire in order to force the American Government to change its commercial policy. They have for a considerable time back ceased to urge the United States to alter their commercial policy, but they are of opinion that when Canada is asked to surrender her inshore fisheries to foreigners, she is fairly entitled to name the proper equivalent. The committee of the Privy Council may observe that the opposition of the Government of the United States to reciprocal free trade in the products of the two countries was just as strong for some years prior to 1854 as it has been since the termination of the Reciprocity Treaty, and that the Treaty of 1854 was obtained chiefly by the vigorous protection of the fisheries which preceded it; and that but for the conciliatory policy on the subject of the fisheries, which Her Majesty's Government induced Canada to adopt after the abrogation of the Treaty of 1854 by the United States, it is not improbable that there would have been no difficulty in obtaining its renewal. The committee of the Privy Council have adverted to the policy of Her Majesty's Government because the Earl of Kimberley has stated that there is no difference in principle between a money payment and "the system of licenses calculated at so many dollars a ton, which was adopted by the colonial government for several years after the termination of the Reciprocity Treaty." Reference to the correspondence will prove that the license system was reluctantly adopted by the Canadian Government as a substitute for the still more objectionable policy pressed upon it by Her Majesty's Government, it having been clearly understood that the arrangement was of a temporary character. In his dispatch of the 3d March, 1866, Mr. Secretary Cardwell observed: "Her Majesty's Government do not feel disinclined to allow the United States for the season of 1866 the freedom of fishing granted to them in 1854, on the distinct understanding that unless some satisfactory arrangements between the two countries be made during the course of the year this privilege will cease, and all concessions made in the Treaty of 1854 will be liable to be withdrawn."

The principle of a money payment for the concession of territorial rights has ever been most repugnant to the feelings of the Canadian people, and has only been entertained in deference to the wishes of the Imperial Government. What the Canadians were willing under the circumstances to accept as an equivalent was the concession of certain commercial advantages, and it has therefore been most unsatisfactory to them that Her Majesty's Government should have consented to cede the use of the inshore fisheries to foreigners for considerations which are deemed wholly inadequate. The committee of the Privy Council need not enlarge further on the objectionable features of the treaty as it bears on Canadian interests. These are admitted by many who think that Canada should make sacrifices for the general interests of the empire. The people of Canada, on the other hand, seem to be unable to comprehend that there is any existing necessity for the cession of the right to use their inshore fisheries without adequate compensation. They have failed to discover that in the settlement of the so called Alabama claims, which was the most important question in dispute between the two nations, England gained such advantages as to be required to make further concessions at the expense of Canada, nor is there anything in the Earl of Kimberley's dispatch to support such a view of the question. The other parts of the treaty are equally, if not more, advantageous to the United States than to Canada, and the fishery question must, consequently, be considered on its own merits; and if so considered, no reason has yet been advanced to induce Canada to cede her inshore fisheries for what Her Majesty's Government have admitted to be an inadequate consideration. Having thus stated their

views on the two chief objections to the late Treaty of Washington, the committee of the Privy Council will proceed to the consideration of the correspondence between Sir Edward Thornton and Mr. Fish, transmitted in the Earl of Kimberley's dispatch of the 17th of June, and of his lordship's remarks thereon. This subject has already been under the consideration of the committee of the Privy Council, and a report, dated the 7th June, embodying their views on the subject, was transmitted to the Earl of Kimberley by your excellency. In his dispatch of 26th June, acknowledging the receipt of that report, the Earl of Kimberley refers to his dispatch of the 17th of that month, and "trusts that the Canadian Government will, on mature consideration, accede to the proposal of the United States Government on this subject." The committee of the Privy Council in expressing their adherence to their report of the 7th June, must add, that the inapplicability of the precedent of 1854, under which the action of the Canadian Parliament was anticipated by the government, to the circumstances now existing appears to them manifest. The Treaty of 1854 was negotiated with the concurrence of the provincial governments represented at Washington, and met with the general approbation of the people; whereas the fishery clauses of the late treaty were adopted against the advice of the Canadian Government, and have been generally disapproved of in all parts of the Dominion.

There can hardly be a doubt that any action on the part of the Canadian Government in anticipation of the decision of Parliament would increase the discontent which now exists. The committee of the Privy Council request that your excellency will communicate to the Earl of Kimberley the views which they entertain on the subject of the Treaty of Washington in so far as it affects the interests of the Dominion.

WM. H. LEE,

Clerk Privy Council, Canada.

Now, here is a statement made by the Privy Councilors, on oath as Privy Councilors to give the best advice to the governor-general; and they state that the opinion they are about to give is in accordance with public opinion in all parts of the Dominion. There was no new election after that opinion was given, and before the debate in which the speeches were made that have been quoted. There was no change in public opinion, as evidenced by a new election, and the return of other persons to the House of Commons to represent that change. It was the same House. The same members were present, and the same Privy Councilors heard and participated in that debate; that is, those of them that were members of the House of Commons. Now, here is the authoritative declaration of the opinion of the members of the Privy Council, and that opinion is expressed, not simply as the private individual opinion of these councilors, but as a reflection of the public opinion of the whole Dominion, that this treaty did gross injustice to British North American interests. And in that opinion Sir John A. McDonald, whose speeches are quoted here against us, agreed. Mr. Trescott, in citing that minute of council, to my mind cited the best evidence that could be adduced in favor of the British claim.

I admit you have nothing to do with the question whether or not this treaty satisfies the countries interested in it, whether it satisfies the Dominion or whether it is unsatisfactory to the United States. That is not the question. That is all over and past, and you are here for the purpose of determining the difference in value between the advantages conceded to the United States and those conceded to the Dominion of Canada by the fishery articles of the Treaty of Washington. I only make these observations for the purpose of saying that it is wholly impossible for the United States to show, as they have attempted to do in their Answer, by the speeches of Canadian statesmen, that all the advantages of the treaty are in favor of the Dominion. I will, therefore, pass to another branch of the subject, but before doing so I wish to revert for a moment to the question as to the Bay of Fundy, to which I referred a few moments ago. I desire to cite a letter addressed on the 6th of July, 1853, by the then Secretary of State of the United States, Mr. Marcy,

to the Hon. Richard Rush, one of the negotiators of the Convention of 1818. It is as follows :

DEPARTMENT OF STATE,
Washington, July 6, 1853.

SIR: You are probably aware that within a few years past a question has arisen between the United States and Great Britain as to the construction to be given to the 1st Article of the Convention of 1818, relative to the fisheries on the coast of the British North American Provinces. For more than twenty years after the conclusion of that convention there was no serious attempt to exclude our fishermen from the large bays on that coast; but about ten years ago, at the instance of the provincial authorities, the home government gave a construction to the 1st Article which closes all bays, whatever be their extent, against our citizens for fishing purposes. It is true they have been permitted to fish in the Bay of Fundy. This permission is conceded to them by the British Government, as a matter of favor, but denied as a right. That government excludes them from all the other large bays.

Our construction of the convention is that American fishermen have a right to resort to any bay and take fish in it, provided they are not within a marine league of the shore. As you negotiated the convention referred to, I should be much pleased to be favored with your views on the subject.

I have the honor to be, &c.,

W. L. MARCY.

The Hon RICHARD RUSH,
Sydenham, near Philadelphia.

This clearly proves that the American Government understood the matter thoroughly. Official correspondence is the best authority on the subject.

Mr. FOSTER. That correspondence was before the decision in the case of the Washington.

Mr. THOMSON. Lord Aberdeen wrote the dispatch containing the relaxation on March 10, 1845. The schooner had been seized in 1843, and the decision of Mr. Bates, as umpire, was given in 1854, in December. The reason why I cited the letter to Rush was to show that in 1853, in July, the United States had full knowledge of the construction which had been placed upon that relaxation. It is true, says Mr. Rush, they have been permitted to fish in the Bay of Fundy, but that is conceded as a matter of favor and not of right, and that was in 1845.

Mr. DANA. But you recollect that after we had that decision, we did not accept the concession as a favor.

Mr. THOMSON. Great Britain has expressly adhered to her opinion from the beginning to the end, as I said before. It is no use to quarrel about the terms of relaxation. Whether the terms mean a relaxation or not is behind the question. It is a practical abandonment, since Great Britain has said that as regards the Bay of Fundy she has relaxed her claim and does not purpose to enforce it again. No such claim has been made since that time, and we have given no evidence of any fishing in the Bay of Fundy, except the fishing within territorial limits around Grand Manan, Campobello, Deer Island, and the coasts of the county of Charlotte and the Province of Nova Scotia.

Mr. TRESCOT. No one objects to the view that Great Britain adheres to the construction you insist upon, so long as you admit that the United States adheres to its construction under which the waters of the Bay of Fundy are not British territorial waters.

Mr. THOMSON. I only wish to say that the United States themselves understood the position of the British Government, and that they must take the concessions in the terms and with the meaning that the British Government attached to it. A man who accepts a gift cannot quarrel with the terms of it.

Mr. DANA. Mr. Everett declined to accept it as a courtesy.

Mr. THOMSON. As a matter of fact the United States have not declined to accept it. They have acted upon it ever since. If they had

kept all their vessels out of the Bay of Fundy for fear of that construction being placed upon their use of these waters, we would have understood it. But they have entered and used it ever since.

Mr. DANA. The United States had fished there under a claim of right. England agreed not to disturb them, but still contended that we had not a right. Therefore our going in was not an acceptance of any favor from Great Britain. This subject was referred to a Commission, and the Commission decided, not on general grounds, but on the ground that one headland was on the American territory. Therefore it was a special decision, and that decision settled the question as to the Bay of Fundy, so that we have not accepted anything from Great Britain which precludes us from taking the position always that we had claimed from the first, namely, that we had a right to fish in the Bay of Fundy.

Mr. THOMSON. The two Commissioners, Mr. Hornby and Mr. Upham, were authorized to decide whether the owners of the Washington should or should not be paid for the seizure of their vessel. That was the only authority they had. They had no more authority to determine the headland question than you have, and it is conceded that you have no such power. Neither had they. *A fortiori*, neither had Mr. Bates, the Umpire.

Mr. DANA. That was the very thing they had to determine.

Mr. THOMSON. They had to determine the legality of a seizure. Incidentally the question of the headlands might come up, just as it would have here, had evidence been given.

Mr. FOSTER. Will you not read the paragraphs from the Umpire's decision?

Mr. THOMSON. I haven't it here.

Mr. FOSTER. He puts it on two grounds. It was impossible to decide the question whether the United States could be paid without deciding whether the Washington was rightly or wrongly seized. That depended upon whether she was seized in British territorial waters. Mr. Bates, the Umpire, decided she was not, and put it on two grounds, one of which Mr. Dana has stated, viz, that one of the headlands of the Bay of Fundy was on American waters, and the other that the headland doctrine was new and had received its proper limitation in the Convention of 1839 between France and Great Britain, that it was limited to bays not exceeding ten miles in width.

Mr. THOMSON. While I do not dispute what Mr. Foster says, I go back to what I was saying when I was interrupted, that these two gentlemen, Mr. Hornby and Mr. Upham, had no authority to decide the headland question. They had undoubted power to decide whether the vessel was improperly seized, and, if so, to assess the damages; and because Mr. Bates, in giving his decision against the British Government, was pleased to base it upon the ground that one headland was in the United States and the other in British territory, according to his views of the contour of the bay, is behind the question. He had no more power to determine that important international question than, as it is conceded, have your excellency and honors in this Commission.

Mr. TRESCOT. Does not the question of damages for trespass settle the right of possession?

Mr. THOMSON. I am quite willing that when the learned counsel for the United States think I am making misstatements of law or facts I should be interrupted, but I cannot expect them to concur in my arguments, and it is difficult to get on in the midst of interruptions. If I understand the arguments against the British case, able arguments I admit they are, and if I understand the argument which I shall have the honor to submit, I shall show that they have not one single leg to stand

upon; that they have no foundation for the extraordinary defense that has been set up to the righteous claim of the British Government for compensation. If I fail to show this, it will not be because it cannot be shown by counsel of the requisite ability, but simply because I have not the ability to present the subject as it should be presented to your excellency and honors.

My learned friend, Mr. Trescot, after taking the ground that the treaty was not made between the United States and Canada, but was made between the United States and Great Britain, went on to use an argument which certainly caused me a great deal of astonishment at the time, but which I think, upon reflection, will not inure to the benefit of the United States. "Why," said he, referring to a minute of council which he read, "the Canadian Government said in that minute that if Great Britain would guarantee a loan of (I think it was £4,000,000), they would be willing that this treaty should be passed." Now, that had reference, we well know, to the Fenian claims particularly. Whether it was creditable to Canada or not to give up the right to compensation for the outrageous violation of neutral territory by marauders from the United States, it is not my province to argue. She had a right to give it up if she thought fit to do so in consideration of a guarantee by Great Britain of the proposed loan. Mr. Trescot says: "Because you were dissatisfied with this treaty—because you were dissatisfied with losing your territorial rights—you obliged Great Britain to guarantee a loan of £4,000,000 in reference to an intercolonial railway." Great Britain did guarantee a loan, and Canada got the money. "With what face," he says, "does Canada come here now and claim compensation, since she has been paid for that?"

Well, it struck me that if his argument was correct it proved a little too much. What does it show? This question, by his own contention, is one between Great Britain and the United States. Great Britain claims a compensation here, which, under the terms of the treaty, she is entitled to get. If, therefore, as Mr. Trescot argues, the claim has been paid, I would ask who has paid it? If Canada has been paid for yielding certain important territorial rights to the United States for the term of twelve years from 1873, if Canada has ceded those rights to the United States, as undoubtedly she has by the Treaty of Washington, and if Canada has been paid for that cession by Great Britain, then I apprehend that Great Britain has paid the debt which the United States ought to have paid, and she can properly and justly look to the United States to be refunded. Now, that guarantee was exactly £4,000,000 sterling. We are modest in our claim, and ask for only \$15,000,000 altogether. That being so, I think Mr. Trescot has pretty well settled this case. I think it was he, but I am not quite sure, who said in the course of his speech, although I did not find it reported afterwards—perhaps it was Mr. Dana—that when he came down here first he thought the case of the British government was a great deal better than it turned out in evidence.

MR. TRESCOT. I didn't say that.

MR. THOMSON. It was said by one of the counsel for the United States. It may be repudiated now.

MR. DANA. I haven't committed my speech to memory.

MR. THOMSON. Unfortunately I do not find it committed to paper. At all events, that is the fact. If you take Mr. Trescot's argument, the result is that we must get four million pounds sterling. Great Britain paid that; and it is just the case of a man who, with the consent of an-

other, pays that other's debt. It is money paid to his use, as all lawyers know, and is a valid claim against the party for whom it was paid.

Now, I will follow him a little further, and will examine some other propositions that he laid down. He says this, on page 58 of his speech :

It is precisely, as far as you are concerned, as if, instead of the exchange of fishing privileges, that treaty had proposed an exchange of territory. For instance, if that treaty had proposed the exchange of Maine and Manitoba, and the United States had maintained that the value of Maine was much larger than Manitoba, and referred it to you to equalize the exchange. It is very manifest that to New England, for instance, it might not only be disadvantageous, but very dangerous : but the only question for you to consider would be the relative value of the two pieces of territory.

Well, I will take his view of that matter, and let us see what follows. He in effect says, just put one territory against another and take their value—how many acres are there in the State of Maine and how many in the Province of Nova Scotia ? Now, we have evidence of what the concession is under this treaty to the fishermen of the Dominion. They get the right to fish as far north as they please over a line drawn from the thirty-ninth parallel of north latitude upon the American coast, a distance, I think, of somewhere about 1,050 miles. As against that, the United States fishermen get upon the British-American coast the right to fish over an extent of some 3,700 odd miles. There is a clear balance entirely against them. Or, if you choose to take the area in square miles, you have nearly 3,500 square miles of fishing territory given to us by the United States, while 11,900 square miles of British territorial waters are given to them. I am quite willing to meet them upon their own ground, to oppose them with their own weapons. In that view there is just the difference in our favor between 3,500 square miles and 11,900.

Now, I will pass on to another branch of our claim for compensation. Great Britain says, and we have proved, that along the line of Canadian coast upon which the American fishermen ply their calling by virtue of this treaty, there have been very costly harbors made, and there have been numerous large and expensive light-houses erected. Great Britain says that by means of these harbors and light-houses the fishermen of the United States have been enabled more successfully to prosecute their calling in territorial waters. That would strike you, I think, as being obviously the case. These improvements render the privilege conceded by us much more valuable than it otherwise would have been. Suppose the coast to have been entirely unlighted, and the harbors to have been unsafe and difficult of access, it might then well have been said that the privilege was merely a nominal one ; that no fisherman could ply his vocation in Canadian territorial waters without danger to life and property. The evidence as to the cost of these works is before you, and I do not intend to go into it. I am only alluding to it because I am following the course of Mr. Trescot's address. Does it not strike you as reasonable that the effect of these expenditures upon the American fishing-business should be taken into consideration ? Not only is there greater safety and more certainty of successful catches, but money is thereby actually put into the pockets of their merchants in the shape of premiums of insurance saved. If it be true that they pay one per cent. a month for a fishing-vessel in the bay—and some of the witnesses say that is the rate—what would they pay if there were no such light-houses to guide their vessels to a place of safety—no such harbors to shelter them from storms ? When Mr. Trescot made his flourish on the subject he asked if we had no trade that required these lighthouses. I am

afraid to trust my memory, to quote the very words he used, for his language startled me a little. I read his remarks as follows :

And now, with regard to this question of consequences, there is but one other illustration to which I will refer, and I will be done. I find at the close of the British testimony an elaborate exhibit of 166 lights, fog-whistles, and humane establishments used by United States fishermen on the coast of the Dominion, estimated to have cost in erection, from the Sambro light-house, built in 1758, to the present day, \$232,138, and for annual maintenance, \$265,197. I scarcely know whether to consider this serious ; but there it is, and there it has been placed, either as the foundation for a claim, or to produce an effect. Now, if this Dominion has no commerce ; if no ships bear precious freight upon the dangerous waters of the gulf, or hazard valuable cargoes in the straits which connect it with the ocean ; if no traffic traverses the imperial river which connects the Atlantic with the great lakes ; if this fabulous fishery, of which we have heard so much, is carried on only in boats so small that they dare not venture out of sight of land, and the fishermen need no other guide and protecting light than the light streaming from their own cabin-windows on shore : if, in short, this Dominion, as it is proudly called, owes nothing to the protection of its commerce and the safety of its seamen ; if these humane establishments are not the free institutions of a wise and provident government, but charitable institutions to be supported by the subscriptions of those who use them, then the Government of the Dominion can collect its \$200,000 by levying light-dues upon every vessel which seeks shelter in its harbors, or brings wealth into its ports. But if, in the present age of civilization, when a common humanity is binding the nations of the world together every day by mutual interests, mutual cares, and privileges equally shared, the Dominion repeals her light-dues in obedience to the common feeling of the whole world, with what justice can that government ask you, by a forced construction of this treaty, to reimpose this duty, in its most exorbitant proportions and its most odious form, upon us, and upon us alone ?

Now, a more extraordinary argument than that I have never heard used. Your excellency and your honors are here to value the difference between the concessions made by the United States to Great Britain on the one hand, and those made by Great Britain to the United States on the other. We contend that the fisheries of the United States are useless, not because there are no light-houses on their shore, and no harbors in which our fishing-vessels could find shelter in time of need ; but we say their fishing-grounds are of no service to us, because the fish are not there, because our fishermen have never used them, preferring to fish upon our own coasts ; there being, in fact, no occasion for them to leave their own shores and go hundreds of miles away from home to fish on the American coast ; but if the fish had been abundant in American coastal waters, and light-houses had been there to guide our fishermen, and harbors to preserve them from shipwreck, or reduce their perils, do you think these things should not be taken into consideration in fixing the compensation for the use of those fisheries ? Do you think they would not have been the basis of a claim against us ? Certainly they would. I shall show from the written statements of United States officials what estimate was placed upon light-houses immediately after the great storm, which is called the "American storm," by reason of the vast number of American vessels that were destroyed in the Gulf of St. Lawrence, and the vast number of American seamen that found a watery grave beneath its waves. I will show you what was thought about this subject of light-houses at that time. And if you can then agree with the view presented by Mr. Trescott, I have nothing more to say ; but I do not think it is possible that you can. In the official correspondence, which is in evidence, we have this letter addressed by the then United States consul, I think, at Pictou, to Sir Alexander Bannerman, at that time the governor of Prince Edward Island. It is No. 28, in the official correspondence (Appendix H), put in as part of the evidence in support of Her Majesty's case, at the outset of these proceedings. I may mention here that a number of the witnesses spoke of the storm as having taken place in 1851. This letter bears date in 1852, but as it refers to a great storm, and I have heard of only one such

storm happening between 1850 and 1860, I should judge either that this is a misprint for October, 1851, or that the storm actually took place in 1852, for no two storms succeeded one another in 1851 and 1852. The letter is as follows :

CONSULATE OF THE UNITED STATES,
Province of Nova Scotia, October 28, 1852.

SIR : Since my return from Charlotte Town, where I had the honor of an interview with your excellency, my time has been so constantly employed in the discharge of official duties connected with the results of the late disastrous gale, so severely felt on the north side of Prince Edward Island, that I have not found time to make my acknowledgments to your excellency for the kind and courteous reception extended to me at the government house, nor to furnish you with my views relative to some improvements which might be made by your excellency's government, thereby preventing a similar catastrophe to the one which has so lately befallen many of my countrymen ; and at the same time on behalf of the Government of the United States, which I have the honor to represent, to thank you most feelingly for the promptness and energy displayed by your excellency in issuing proclamations, whereby the property of the poor ship-wrecked mariner should be protected from pillage.

These various duties devolving upon me, I now have the pleasure of discharging, but only in a brief and hurried manner.

The effect of the recent visitation of Providence, although most disastrous in its consequences, will yet result in much good.

In the first place, it has afforded the means of knowing the extent and value of fisheries on your coast, the number of vessels and men employed, and the immense benefit which would result to the people within your jurisdiction, as well as those of the United States, if the fishermen were allowed unrestrained liberty to fish in any portion of your waters, and permitted to land for the purpose of curing and packing.

From remarks made by your excellency, I am satisfied it is a subject which has secured your most mature reflection and consideration, and that it would be a source of pride and pleasure to your excellency to carry into successful operation a measure fraught with so much interest to both countries.

2. It has been satisfactorily proved, by the testimony of many of those who escaped from a watery grave in the late gales, that had there been beacon-lights upon the two extreme points of the coast, extending a distance of 150 miles, scarcely any lives would have been lost, and but a small amount of property been sacrificed. And I am satisfied, from the opinion expressed by your excellency, that the attention of your government will be early called to the subject, and that but a brief period will elapse before the blessing of the hardy fishermen of New England and your own industrious sons will be gratefully returned for this most philanthropic effort to preserve life and property, and for which benefit every vessel should contribute its share of light-duty.

3. It has been the means of developing the capacity of many of your harbors, and exposing the dangers attending their entrance and the necessity of immediate steps being taken to place buoys in such prominent positions that the mariner would in perfect safety flee to them in case of necessity, with a knowledge that these guides would enable him to be sure of shelter and protection.

From the desire manifested by your excellency previous to my leaving Charlottetown, that I would freely express my views relative to the recent most melancholy disaster, and make such suggestions as might in my opinion have a tendency to prevent similar results, there is no occasion for my offering an apology for addressing you at this time.

I have, &c.,

B. H. NORTON,
United States Consul for Pictou Dependency.

His Excellency Sir A. BANNERMAN, &c.

Bear in mind that an official letter, written in the year 1864 by Mr. Sherman, the then American consul at Charlottetown, was put in evidence by the United States Agent ; and Mr. Foster contended with much force that the statements in that letter should be treated as thoroughly trustworthy, because the writer could have had no object in misleading his own government. I accede to that view. No doubt Mr. Sherman believed in the truth of all he wrote. It is for you to say on the evidence whether or not he was correct in point of fact. Apply Mr. Foster's reasoning to Consul Norton's letter, and are not the value of the Prince Edward Island inshore fisheries, and the value to American fishermen of the light-houses and harbors since built and constructed around her shores, proved by the best of all evidence ? As regards the inshore

fisheries, the consul had no object in overestimating their value in any way to the governor of the island that owned them, or to the government that alone, of all the governments of the world, sought entrance into them as against the rightful owners. Now, what does he say :

It has been satisfactorily proved, by the testimony of many of those who escaped from a watery grave in the late gales, that had there been beacon-lights upon the two extreme points of the coast, extending a distance of 150 miles, scarcely any lives would have been lost, and but a small amount of property been sacrificed. And I am satisfied, from the opinion expressed by your excellency, that the attention of your government will be early called to the subject, and that but a brief period will elapse before the blessing of the hardy fishermen of New England and your own industrious sons will be gratefully returned for this most philanthropic effort to preserve life and property, and for which benefit every vessel should contribute its share of light-duty.

This is a very different opinion from that of Mr. Trescot—very different, indeed. All these light-houses, and many more than ever Mr. Norton dreamed of, have since been built. Before they were built, Mr. Norton says that such erection would prove of the greatest value to future American fishermen, and that not only their blessings would be poured on the heads of those who should erect them, but he even pledged them to go a step further and part with that which they are less disposed to bestow than blessings—a little money. The light-dues have long since been abandoned.

Mr. FOSTER. When ?

Mr. THOMSON. They were abandoned in 1867. It has been so stated in evidence, and it is in the minutes. From that time to the present there have been no light-dues collected at all.

He goes on to say :

It has been the means of developing the capacity of many of your harbors, and exposing the dangers attending their entrance and the necessity of immediate steps being taken to place buoys in such prominent positions that the mariner would in perfect safety flee to them in case of necessity, with a knowledge that these guides would enable him to be sure of shelter and protection.

There is the opinion of a disinterested man at that time, or rather of a man who was directly interested in getting these light-houses erected, for which we now ask them to pay us a fair share during the twelve years they are to be kept up for their fishermen. We could not ask it before, although the fishermen were in the body of the gulf, and had the advantage of them. But when they come on equal terms with our own subjects into our territorial waters, why should they not bear a portion of the territorial burdens ? Is it not monstrous to argue against it ?

Mr. FOSTER. Does it not appear in your evidence that you charged the American fishing vessels light-dues from the time they came into your harbors, or passed through the Strait of Canso, until such time as you saw fit to abolish them, having collected enough to pay for them ?

Mr. THOMSON. They have been abolished since 1867, as regards the Gut of Canso, if my memory does not deceive me very much. We have in the evidence of that very amusing gentlemen, Mr. Patillo, a description of the way they were evaded. To this evidence I shall refer hereafter.

I think that I have now shown conclusively that this part of the British case is entitled to serious and favorable consideration at the hands of your honors—I mean this question of the lights.

I come to another part of Mr. Trescot's argument, which I think will be found on page 59 :

I have but one other consideration to suggest before I come to the history of this question, and it is this : If you will examine the treaties, you will find that everywhere it is the

"United States fishermen," the "inhabitants of the United States," the citizens of the United States who are prohibited from taking part in the fishery within the three-mile limit. Now, I say, remember I am not talking about local legislation on the other side at all; I am talking about treaties. I say there is nothing in any treaty which would forbid a Nova Scotian or a Prince Edward Island citizen from going to Gloucester, hiring an American vessel with an American register, and coming within the three-mile limit and fishing—nothing at all. If such a vessel be manned by a crew half citizens of the United States and half Nova Scotians, who are fishing on shares, recollect, and who take the profits of their own catches, where is the difference? The United States citizens may violate the law, but are the citizens of Nova Scotia doing so? They are not the "inhabitants" or fishermen of the United States" excluded from fishing within the three-mile limit.

I do not like to say I was startled at that, because Mr. Trescott says I am startled continually. Nevertheless I was. I defy the parallel of that proposition to be found, uttered by any statesman or lawyer that ever existed. Mr. Trescott stands alone in that view, both as having the extraordinary faculty to conceive such an idea, and the yet more extraordinary boldness to utter it in a civilized community, and before a tribunal such as this. What? Because the American ship-owners of Gloucester, Welfleet, or anywhere along the coast of New England, choose to take into their service Prince Edward Islanders, who are starved out in consequence of their fish being stolen under their noses, he has the audacity (I do not use the word offensively, but in a Pickwickian sense) to say that a vessel so manned is not an American vessel within this treaty; but that a British crew makes an American vessel a British vessel.

MR. TRESCOTT. That is not the statement of the extract you read.

MR. DANA. There is nothing about vessels in the treaty.

MR. THOMSON. I will read it again:

"Now, I say," &c.

Now, if he means that there is nothing in the Treaty of Washington to prevent American vessels entering our waters to fish, I agree with him, but if he means that there is nothing under the Treaty of 1818, I take issue.

It is the boldest proposition I ever heard, that an American vessel, an American bottom, manned by British inhabitants from Nova Scotia, Prince Edward Island, or any other part of the Dominion, owned by American owners, but simply manned by British subjects, could come into our waters in the face of the Convention of 1818; I say I never heard such a proposition before, and do not ever expect to hear it again. Such a proposition never emanated from any northern brain. It requires the heat of the south to generate such an idea.

At page 60 Mr. Trescott says:

That in valuing the exchange of privilege, the *extent* to which the privilege is offered is a fair subject of calculation, and that a privilege opened to "all British subjects" is a larger and more valuable privilege than one restricted to only the British subjects resident in the Dominion.

I have already dealt with that proposition. I have shown that if that is the case, the United States have given us the right to fish where there are no fish at all, over an area of 3,500 square miles, and that they get under the treaty the right to fish over 11,900 square miles on our coasts, where there are fish in abundance. So his first proposition is necessarily against him. Then take the second:

That in valuing the exchange of privilege, only the direct value can be estimated, and the *consequences* to either party cannot be taken into account.

It is difficult to see what is meant by that. Does he mean to say if this privilege, which is given to the Americans to enter our territorial waters and fish there, should have the effect of preventing the whole Gloucester and American fishing fleet from being absolutely destroyed

for want of business to make it pay, and if we should show conclusively on behalf of the British Government that such is really the case, that nevertheless the United States Government should not pay one dollar because it is a consequence of the privilege, and not the direct value? Does he seriously contend for such an extraordinary doctrine? I think I shall be able to show you by the evidence on record in this inquiry, that unless the Americans had the right to come on the shores of Nova Scotia and New Brunswick, to enter our territorial waters along the shores of Prince Edward Island, along the Gaspé shore, the southern shore of Labrador, and along the estuary of the St. Lawrence, that unless they had those rights, the United States fishing-fleet could not subsist; and I do not intend to rely upon British proofs on that point; but I intend to turn up the American evidence, and I shall make that as clear as daylight. I will prove it by evidence from the lips of their own witnesses, man after man, witness after witness, not by evidence given by us. And is it to be said that the United States ought to pay nothing to us for rights obtained under the treaty, if I can show that without those rights the Gloucester fishing-fleet, and all the American fishing-fleet, the whole North American fishery, as prosecuted by Americans, would be a failure? Are they not to pay for that privilege? If we hold fishing grounds over which alone fishing can be successfully prosecuted, is that fact not to be taken into account? Underlying the whole arguments of Mr. Foster, Mr. Dana, and Mr. Trescot, is the extraordinary fallacy that this is a simple question for you to determine as between Great Britain and the fishermen of Gloucester. They apparently think that if they can show that under the *status quo* before the treaty, their fishermen could make more money than since the treaty went into operation, that is an end of the British case. That is not so. The treaty was not made between Great Britain and the fishermen of Gloucester; it was not made in respect to the Gloucester fishermen, but in respect to the whole body of the people of the United States. It is not a question whether the fishermen get more or less money. In fact, however, how is the whole trade of Gloucester and other American fishing ports kept up? Is it not by the fishing business? The people of Gloucester do not, however, live merely on fish. They have to buy meat, pork, flour, &c., which are raised elsewhere than in Gloucester, I apprehend. They come from the far West; the Gloucester people are consumers of the produce of the far West. How are they able to pay for that produce? From the fisheries; and so the far West is interested as much as the seaboard itself. So, again, take the consumers of the United States. If a much larger quantity of fish goes into the country under the treaty than otherwise would, the price falls and the consumers get the fish for far less money. Is that not a benefit? I care not whether it is an injury to Gloucester fishermen or not; I care nothing about them, as a class, although it can and will be shown that the fishermen of Gloucester, as such, have not lost one dollar by this treaty, but have made money. Now, let us pass on and see what is the next proposition. Mr. Trescot says:

That so far as British subjects participate in the inshore fishery in United States vessels upon shares, their fishery is in no sense the fishing or fishermen of inhabitants of the United States.

I have dealt with this subject before. It requires a man possessing great flexibility of argument and great boldness of utterance, to enunciate such a proposition in this or any other court. We have heard it for the first time, and we will never hear it again after this Commission closes. What difference does it make, in valuing the privilege given

under the treaty, whether the vessels sent out by the city of Gloucester, the towns of Wellfleet and Marblehead, or other towns on the New England coast, are manned by British subjects or foreigners? We have it in evidence that some of the fishermen are Portuguese, some Spaniards, Portuguese certainly, and I am not sure but that some were Danes, and men belonging to the more northern nations. Why not have prepared a schedule, showing how many of those who fished in American vessels, and made money in them, were Portuguese or Spaniards, and asked us to make deduction because they were not American citizens? The whole money and profits of the voyages, excepting the men's shares, went into the pockets of the merchants. Never was such an argument heard as that the United States should not pay one dollar, because fish might have been caught by Portuguese, Spaniards, or Frenchmen on board of United States vessels. The United States must be reduced to very great straits in supporting their failing case before they would use such an argument. I could not help thinking, after the evidence got fairly launched, that the American counsel were much abroad as to what their own case really was. I do not for one instant charge upon Mr. Foster that, in preparing his case, he put in a single statement that he did not believe to be absolutely true; he necessarily had to receive the information from somebody else. Yet you see throughout the United States "Answer" statements that are, and must be admitted to be, wholly without foundation.

Look at this statement as put forward in the United States Answer, which will remain on record as a statement of the views of the Government and of the facts which the Government of the United States pledged itself to prove:

The United States inshore fisheries for mackerel, in quality, quantity, and value, are unsurpassed by any in the world.

So far from this being the fact, we had from the lips of witness after witness, called on behalf of the United States, that their inshore fisheries have entirely failed; that last year there was, as far as mackerel was concerned, an exceptionally good catch upon their own coast, but that the body of that catch was not taken within United States territorial waters at all; but extended over areas of the sea from ten to fifty miles distant from the shores. Yet this extraordinary statement is put upon record. I say again I do not assume for an instant that Mr. Foster wrote this on behalf of the United States, not believing it to be true. I believe that some parties or other, I do not know who, have given him false and incorrect information, and he has committed the United States to a statement that is utterly and wholly at variance with the facts. The Answer says:

The United States inshore fisheries for mackerel, in quality, quantity, and value, are unsurpassed by any in the world. They are within four hours' sail of the American market, and many of the mackerel are sold fresh at a larger price than when salted and packed. The vessels fitted with mackerel seines can use the same means and facilities for taking menhaden, so that both fisheries can be pursued together. And they combine advantages compared with which the Dominion fisheries are uncertain, poor in quality, and vastly less in quantity.

In Heaven's name if these Dominion fisheries are "uncertain, poor in quality, and vastly less in quantity," how happens it that such an excitement has been aroused, and such an incendiary address been made before this Commission, as was delivered by Mr. Dana, and to which I shall have to call the attention of your excellency and your honors? If the fisheries are so "uncertain, poor in quality, and vastly less in quantity," and miles and miles away from their own coast, what did

they mean by fighting for entrance into these waters, and by challenging us with making inhospitable laws to keep them out? If the lips of their witnesses told the truth, the laws are hospitable laws; they are laws passed by us for the purpose apparently of keeping them out of the fishery, but their effect was to keep American fishermen from ruining themselves. They make voyage after voyage into the bay, each one resulting, they say, in a loss of \$500 or \$1,000.

I will show your excellency and your honors by and by, the figures put in for the purpose of showing the losses made by these men who sent their vessels to the bay for the fish "poor in quality, and vastly less in quantity," while there were thousands and thousands of fish off their own coasts, just waiting to be caught, and deal with those figures as they deserve to be dealt with. Did you ever hear anything like it in the world?

The United States Answer further states:

The Canadian fisheries are a long voyage from any of the markets whatever, and involve far more exposure to loss of vessels and life. These fisheries along the shores of the United States are now open to the competition of the cheap-built vessels, cheap-fed crews, and poorly-paid labor of the Dominion fishermen, who pay trifling taxes, and live, both on board their vessels and at home, at less than half the expense of American fishermen.

I have not heard any evidence of that yet. It is a pretty bold assertion to put forward, and not support with proof. But if it were true, what does it mean? We have had the evidence of American fishermen to show that they live like little princes, and we had one witness who absolutely told us that the cook was the chief man on board. The men must make a fortune in the bay to enable them to live like princes, at a rate at which they would only be justified in living if they had from \$10,000 to \$12,000 a year. If they choose to indulge in expensive dress and food, and return at the end of the year and say they have lost money, are we to lose the compensation to which we are entitled for our fisheries? I never heard such an argument used before, and I hope never to hear it again. If men choose to eat, drink, and wear all their profits, they cannot both have their cake and eat it.

Let us see what else the "Answer" says:

It is only from lack of enterprise, capital, and ability, that the Dominion fishermen have failed to use them; but recently hundreds of Dominion fishermen have learned their business at Gloucester, and other American fishing towns, and by shipping in American vessels. They (the Dominion fishermen) have in the United States waters, to-day, over 30 vessels equipped for seining, which, in company with the American fleet, are sweeping the shores of New England.

When we first read that extraordinary statement, we were beyond measure astonished. We made inquiries, but no one had ever heard of these vessels; and, after cross-examining American witnesses and examining our own witnesses, we found at last trace of a phantom ship, one vessel alone, that was ever heard of on the United States coast since the treaty was made. The truth must have been known to the man who gave the information to Mr. Foster, for he must have been a practical man or he would not have been called upon to give information, and the information is precise, "*over thirty vessels.*" The man who gave that information to Mr. Foster, who induced him to commit his government to such an extraordinary and baseless statement, deliberately and willfully, in my judgment, deceived the Agent of the United States.

I call your honors' attention to these facts, in order to show that the Agent and counsel of the United States hardly knew what sort of a case they had when they came into court. They must have been entirely

misled as to the facts by fishermen or fish-dealers, or those interested in in the fisheries on the New England coast.

I will pass on. Mr. Trescot says in his argument:

With regard to the history of these treaties, there are two subjects in that connection which I do not propose to discuss at all. One is the headland question. I consider that the statement made by my distinguished colleague who preceded me has really taken that question out of this discussion. I do not understand that there is any claim made here that any portion of this award is to be assessed for the privilege of coming within the headlands. As to the exceedingly interesting and very able brief submitted for the other side, I am not disposed to quarrel with it. At any rate, I shall not undertake to go into any argument upon it. It refers entirely to the question of territorial right, and the question of extent of jurisdiction—questions with which the United States has nothing to do. They have never been raised by our government, and probably never will be, because our claim to fish within the three-mile limit is no more an interference with territorial and jurisdictional rights of Great Britain, than a right of way through a park would be an interference with the ownership of the property, or a right to cut timber in a forest would be an interference with the fee-simple in the soil.

Well, I should like to ask your excellency and your honors whether a gentleman who owned a farm would not find that its value materially diminished by some one else having a right of way over it. Could he sell it for the same price? He obviously could not. And why? Because the enjoyment of the privilege is destroyed to the extent that the easement gives the enjoyment of it to the person holding the right of way. The assertion that it makes no difference to a person possessing land that somebody else has the right to cut trees on it I submit is perfectly absurd. It is just what the Americans have a right to do under the treaty. They have not the right to come to our lands and cut trees; but they have the right to come into our territorial waters and take from them fish, which are just as valuable to the waters as trees are to the land. They have the right to take the fish, and for that, I apprehend, they must pay. If a man has the right to enter on my land to cut trees I presume he must pay compensation for it; I presume he cannot get the right unless compensation is agreed upon. That is what we say. Taking fish from our waters is precisely the same as taking trees off our land.

Further on in his argument, Mr. Trescot puts forward the extraordinary doctrine that the Treaty of 1818 was rescinded by the Treaty of 1854.

At page 60 he uses these words:

Then with regard to the character of the Convention of 1818. I wish to put on record here my profound conviction that by every rule of diplomatic interpretation, and by every established precedent, the Convention of 1818 was abrogated by the Treaty of 1854, and that when the treaty was ended in 1866, the United States and Great Britain were relegated to the Treaty of 1783, as the regulator of their rights.

Well, the proposition that the Convention of 1818 was abrogated by the Treaty of 1854 is sufficiently novel. I will, however, show your honors that by the Reciprocity Treaty, so far from there being any intention shown to abrogate the Treaty of 1818, the exact opposite was the case; and that the Convention of 1818 is cited in the Reciprocity Treaty as a treaty then subsisting, and which should continue to subsist. Before I read from the Reciprocity Treaty I desire your excellency and your honors to understand that in refuting these arguments I do not do so because they can have had any substantial effect upon this Commission. They cannot possibly have any. Your excellency and your honors know too much of international law to believe any such proposition. But I am afraid that, if such propositions are allowed to run broadcast through their speeches, without being controverted, it may be imagined that we are unable to meet them, and therefore allow them to pass *sub*

silentio. If the matter was being argued before a tribunal which had then and there to decide on it, and the court were composed of lawyers, I would not ask to be heard, and would not insult the court by argument against so untenable a proposition. The observations I am now making are for the purpose of refuting opinions, not in the minds of your excellency or your honors, but in the minds of the public who have not the same intelligence or means of information as your honors. The Reciprocity act recites :

Her Majesty the Queen of Great Britain, being specially desirous, with the Government of the United States, to avoid further misunderstanding between their respective subjects and citizens, in regard to the extent of the right of fishing on the coasts of British North America, secured to each by Article I of a convention between the United States and Great Britain, signed at London on the 20th day of October, 1818, and being also desirous to regulate the commerce and navigation between their respective territories and people, and more especially between Her Majesty's possessions in North America and the United States, in such manner as to render the same reciprocally beneficial and satisfactory, have respectively, &c.

Your honors will see that the act commences by stating that both governments are desirous of avoiding further misunderstandings between their respective subjects and citizens, with respect to the extent of the right of fishing given by that article ; and after reciting the Convention of 1818 and the particular article in question, goes on to say that it was important that the right under the convention should be settled. So far from showing any intention to repeal the Convention of 1818, the exact opposite was the fact. That is the preamble. Here is the enacting part :

It is agreed by the High Contracting Parties that, *in addition to the liberty, &c.*

Does it say in this treaty that it swept away the Treaty of 1818 and enacted a new treaty in lieu thereof ? So far from that being the case, it says :

* * * In addition to the liberty secured to the United States fishermen by the above-mentioned Convention of October 20, 1818, of taking, curing, and drying fish on certain coasts of the British North American Colonies therein defined, the inhabitants of the United States shall have, &c.

And yet it is seriously urged by one of the learned counsel on behalf of the United States that the Treaty of 1854 abrogated the Convention of 1818. I think I have satisfactorily refuted Mr. Trescott's argument on this point, although that argument was not material to any question arising under the Washington Treaty. I now turn your attention to Twiss on "The Law of Nations." I am reading from the edition of 1859. At page 376 Sir Travers Twiss says :

Treaties properly so called, the engagements of which imply a state of amity between the contracting parties, cease to operate if war supervenes, unless there are express stipulations to the contrary. It is usual, on the signature of a treaty of peace, for nations to renew expressly their previous treaties if they intend that any of them should become once more operative. Great Britain, in practice, admits of no exception to the rule that all treaties, as such, are put an end to by a subsequent war between the contracting parties. It was accordingly the practice of the European powers, before the French revolution of 1793, on the conclusion of every war which supervened upon the Treaty of Utrecht, to renew and confirm that treaty under which the distribution of territory among the principal European states had been settled with a view of securing an European equilibrium.

This has a double bearing. Part of the argument which has been used by Mr. Trescott is that we are remitted to the rights acquired by the Treaty of 1783. He conveniently passes over, for the purpose of his argument, the fact that a war occurred between the United States and Great Britain in 1812, which was followed by a treaty of peace signed in December 24, 1814, the Treaty of Ghent. There is no doubt, says Mr. Trescott, that in consequence of the repeal of the Convention

of 1818 by the Reciprocity Treaty of 1854, the two nations are remitted back to the right each possessed under the Treaty of Paris of 1783; and that the Treaty of Ghent has nothing to do with this matter. I answer to that argument, that such is not the law of nations. By the law of nations, when war was declared in 1812 by the United States against Great Britain, every right she possessed under the Treaty of 1783 was abrogated, and, except so far as it was agreed by the parties that the *status quo ante bellum* should exist, it ceased to exist. The status, which is commonly called by writers *uti possidetis*, the position in which the treaty found them, alone existed after the Treaty of 1814 was concluded, I have cited the express authority of Sir Travers Twiss upon the subject.

But we do not stop with British law. I will take American law on the subject, and we will see where my learned friends find themselves placed by American writers. I now cite from "Introduction to the Study of International Law, designed as an aid in teaching, and in historical studies, by Theodore D. Woolsey, president of Yale College." At page 83, President Woolsey uses this language:

At and after the Treaty of Ghent, which contained no provisions respecting the fisheries, it was contended by American negotiators, but without good reason, that the article of peace of 1783, relating to the fisheries, was in its nature perpetual, and thus not annulled by the war of 1812. By a convention of 1818 the privilege was again, and in perpetuity, opened to citizens of the United States. They might now fish as well as cure and dry fish, on the greater part of the coast of Newfoundland and Labrador, and on the Magdalen Islands, so long as the same should continue unsettled; while the United States on their part renounced forever any liberty "to take or cure fish on or within three marine miles of any of the coasts, bays, creeks, or harbors of His Britannic Majesty's dominions in America, not included within the above-mentioned limits.

It is there positively declared by one of their own writers on international law in so many words; and he not only lays down the law generally, but takes up the specific case with which we are now dealing, that the American contention is entirely incorrect. He says:

At and after the Treaty of Ghent, which contained no provisions respecting the fisheries, it was contended by American negotiators, but *without good reason*, that the article of the peace of 1783, relating to the fisheries, was in its nature perpetual, and thus not annulled by the war of 1812.

I think that statement is pretty conclusive. Now, here is the general law which President Woolsey lays down. At page 259 he says:

The effect of a treaty on all grounds of complaint for which a war was undertaken is to abandon them. Or, in other words, all peace implies amnesty or oblivion of past subjects of dispute, whether the same is expressly mentioned in the terms of the treaty or not. They cannot, in good faith, be revived again, although *repetition* of the same acts may be a righteous ground of a new war. An abstract or general right, however, if passed over in a treaty, is not thereby waived.

If nothing is said in the treaty to alter the state in which the war actually leaves the parties, the rule of *uti possidetis* is tacitly accepted. Thus, if a part of the national territory be passed into the hands of an enemy during the war, and lies under his control at the peace or cessation of hostilities, it remains his, unless expressly ceded.

That is quite clear. If, at the end of this war, Washington had been in the possession of the British, and if nothing had been said about it in the treaty, it would have become British territory; but with the exception of some unimportant islands in the Bay of Fundy, no territory fell into the hands of the British; and those islands, I believe, were subsequently given up. If, however, the cities of Boston or New York had at that time been actually in possession of the British, unless there had been a clause introduced into the treaty by which the territory was to return to the *status quo ante bellum*, it would have been governed by the *uti possidetis* rule, and would have remained British territory. I also refer your honors to 3 Phillimore, pp. 457, 458, and 459, to the same

effect. Now, I am not aware there is anything else in Mr. Trescot's speech which I need specially take up, because some of the other points occur in the arguments of Mr. Dana and Mr. Foster.

MR. TRESCOT. Perhaps you will allow me to say that you are replying to an opinion and not to an argument.

MR. THOMSON. Where an opinion is put forward by counsel, he must either be counsel of such eminence that his opinion did not require to be supported by authorities, or else authorities should be advanced at the time. I admit that Mr. Trescot possesses great ability, but I have undertaken to meet him by British and American authorities, and, as I have shown, he is completely refuted by both. I think it was Mr. Trescot's duty, when he put forward such an extraordinary doctrine, to have stated his authorities. If he did not choose to do so, I cannot help it; but if he now wishes to retract it as not being anything else than an opinion, well, of course, it makes the matter different.

MR. TRESCOT. No; but I did not argue it.

MR. THOMSON. It is put forward not as an opinion, but as a proposition on behalf of the United States; there is no opinion about it; and when the United States speaks through the mouth of counsel, I am bound to treat the matter seriously. If this were a common case between man and man, I would not treat it seriously; but when such a proposition is put forward on the part of a great nation through counsel, it cannot be treated lightly, but is entitled to be treated with respect; and if there is nothing in it, I am bound to show that such is the case.

I pass from Mr. Trescot to Mr. Dana. I propose to take this course for this reason: while I admit the great ability of Mr. Trescot and Mr. Dana, still I think your honors will agree with me that whatever the case of the United States has in it, is to be found in the speech of Mr. Foster. No doubt it is also to be found in the other speeches, but I am taking Mr. Trescot's speech and Mr. Dana's speech out of their order, because I only want to touch on those subjects contained in them which Mr. Foster did not put forward. Anything submitted by Mr. Foster, although it is put forward by Mr. Dana and Mr. Trescot, I will treat as it appears in Mr. Foster's speech, in order to avoid going over the ground twice. Besides, Mr. Foster, as Agent, put forward his case with great ability, and as he on this occasion is officially the representative of the United States, I shall treat his argument as the most serious one of the three.

Mr. Dana stated that all these fisheries belonged to the United States as a right (it is very curious language), because, said he, they were won. He gave a very good description, only a little fanciful, of the whole of the contests for the last century in respect to the fisheries. It was a very pretty essay, and I had much pleasure in listening to it. It was delivered, as one would suppose anything emanating from him would be delivered, very well indeed—the English was admirable, and the style not to be found fault with. But there was very considerable play of imagination, and in this respect the learned counsel on the other side have a great advantage over me, for I am obliged to stick to hard facts. They have followed the practice of the free-swimming fish, and taken a little trip through history in a most graceful but free-and-easy manner. Mr. Dana sets out by stating that the fisheries belonged to the United States, and particularly to the State of Massachusetts, because, says he, "they were won by the 'bow and spear' of Massachusetts men." I never had the pleasure of visiting any of the museums of Boston or other cities of New England where those bows and spears are, presumably, hung up; but if those bows of that olden time were anything like

so long as the bow which American orators, statesmen, and lawyers sometimes nowadays draw in defense of real or imaginary American rights, then I must confess that they must have been most formidable weapons. It is a very extraordinary view, certainly, to present, that because those people fought in some former time with some persons on the coast—Mr. Dana does not say whether they were French, or barbarians, or Indians—they at that time being British subjects, they have the right to our fisheries.

But Mr. Foster went a step further. He stated—I suppose it was this which set off his colleagues—that we are indebted to the people of Massachusetts for now being in possession of Nova Scotia, and that it was entirely owing to their efforts that the British flag waves to-day on the Citadel, instead of that of France. Well, it was rather a bold assertion to make, certainly. I believe some of these Massachusetts men were fighting characters in those days. They fought with the people of England, and came out because they could not live in peace and quietude under British rule; they came out and found liberty of conscience for themselves, and terrified other people by burning witches, and stripping Quakers, showing that after all the old British intolerance was pretty well uppermost. But they were fighting people always, and they came over, and no doubt fought with the French to some extent; and for the first time I knew they went down to Le Pre, and committed the abominable outrage of turning out all the Acadians; I suppose they were commanded by General Winslow. Mr. Dana should have told Mr. Longfellow the story before he wrote *Evangeline*, because probably the British might not have suffered so much in public opinion if it had been generally known that they were Massachusetts people who committed the outrage. I am glad to this extent that the people of Nova Scotia are relieved from the odium. A friend placed in my hands, after the statement had been made, a well-known history of England containing a statement which shows the spirit in which the descent was made by the Massachusetts people upon the coast and upon the French. I find that about that time, after they had come here and fought, and—if I may accept Mr. Foster's view of history as true—delivered us out of the hands of the French, they sent a claim to England for their services. That claim was laid before the British Parliament, which, at the instance of George II, voted them the large sum in those days of £115,000 for their services. So besides being fighting men they were cute enough to get paid for their trouble. Now by the rule *qui facit per alium facit per se* it was Great Britain herself that was fighting, and these were her hired troops. If the people of Massachusetts are going to set up a claim to the Province of Nova Scotia and all the fisheries on the score of their fighting, the money so paid to them should be given back, and £115,000 with 125 years' interest will be a sum which we will condescend to receive for our fisheries and go and live somewhere else, as we must do when our fisheries are gone.

That is really the history of that transaction in which the counsel of the United States so vaunt themselves. I do not say that the Massachusetts men did not fight well; no doubt they did. Mr. Foster says they were people who knew their rights, and knowing, dared maintain them. The people of this Dominion also knew their rights, and will maintain them, too. When I know that the present learned and able chief justice of Nova Scotia is sitting in this chamber, within sound of my voice, as I now speak; when I see the portraits of his eminent predecessors, and of Sir Fenwick Williams of Kars, and Sir John Inglis of Lucknow (both sons of Nova Scotia), looking down upon me

from the walls, I know that our rights have been and are thoroughly understood, and can, if necessary, be bravely upheld and defended in the future as they have been in the past. But I presume the day will never again come when Great Britain will be forced to measure strength with the United States. It is perfectly idle to make use of such language in an inquiry such as this; and in making these remarks I do not wish to be understood as saying anything that can be considered at all offensive to my friends of the United States; I make them simply in answer to observations made, as I submit, most unnecessarily by them.

Mr. Dana's other propositions I will pass over as rapidly as I can, consistently. He said we had no territorial waters—that no nation has. He stakes his reputation on that point.

Mr. DANA. No; you misunderstood me.

Mr. THOMSON. On page 67, Mr. Dana says:

Now, these fishermen should not be excluded except from necessity, some kind of necessity, and I am willing to put at stake whatever little reputation I may have as a person acquainted with the jurisprudence of nations (and the less reputation, the more important to me), to maintain this proposition, that the deep-sea fisherman, pursuing the free-swimming fish of the ocean with his net, or his leaded line, not touching shores or troubling the bottom of the sea, is no trespasser, though he approach within three miles of a coast, by any established, recognized law of all nations.

Now, I say that the meaning of that proposition is this, that there are no such things as territorial waters. I say it means that and nothing else. That is a distinct affirmation, that by international law any fisherman can approach within not merely three miles of the coast, but within any distance from the coast, if he keeps his leaded line from touching the bottom, and the keel of his vessel from touching the land, and that no international law excludes him. Upon that extraordinary proposition I take direct and unqualified issue.

Mr. DANA. What was the proposition to which you refer?

Mr. THOMSON. The proposition was, that there are no such things as territorial waters.

Mr. DANA. I made no such proposition. The question was this: Was there among territorial rights the right to exclude fishermen from fishing?

Mr. THOMSON. I did say this, that Mr. Dana had put forward the proposition that no nation possessed territorial waters. But no doubt that was too broad, because there may be territorial waters so inclosed by land that I presume no question could arise in regard to them; therefore, I stated his proposition too broadly. But Mr. Dana does not confine his statement to the one that no nation has absolute territorial rights over waters. He says that any foreign fisherman can come within any distance of the shores, and if he does not allow his leaded line or the keel of his vessel to touch the bottom, he has an undoubted right to fish.

Mr. DANA. There is no established recognized law of all nations against it.

Mr. THOMSON. Mr. Dana says, "by any established, recognized law of all nations." I do not wish to have any fencing about words; I use words in their ordinary meaning. I presume Mr. Dana means civilized nations. I do not suppose he will contend that, if the civilized nations of Europe and America had recognized a doctrine totally different from that enunciated by him, but the King of Ashantee, or Siam, or some other potentate away off in the interior of the vast continents of Asia and Africa had not acceded to that doctrine, it was not, therefore, the law of nations. I presume he refers to the civilized nations. I will now show the Commission that the proposition submitted by Mr. Dana has

no foundation in international law. I say again, that I understand the expression to mean all civilized nations.

I undertake to prove the contrary of that proposition to be true, not only by international law writers in England, but also by the writers in the United States. Taking up the English writers, I call your attention to 1 Phillimore, page 180, edition of 1854, at which he says:

Besides the rights of property and jurisdiction within the limit of cannon-shot from the shore, there are certain portions of the sea which, though they exceed this verge, may, under special circumstances, be prescribed for.

The writer there assumed that in regard to the three-mile line there was no doubt about it. Sir Robert Phillimore further wrote:

Maritime territorial rights extend, as a general rule, over arms of the sea, bays, gulfs, estuaries, which are inclosed, but not entirely surrounded by land, belonging to one and the same state.

Not only does Sir Robert Phillimore lay down the law that round the coast of any maritime nation, to the extent of three miles, its territorial waters flow, but he goes further, and says that in the case of estuaries and bays, inclosed within headlands, such estuaries and bays belong to the state. That would have been an authority, had the headland question, *per se*, come up for argument. I state it, however, for another purpose. That is an authority which at all events shows the views of one of the greatest English writers on international law upon the subject under discussion.

Mr. DANA. Is there anything said about fisheries?

Mr. THOMSON. I have read the passage, and will hand you the book, if you desire it.

Mr. DANA. The question is, whether among the rights is there one to exclude fishermen.

Mr. THOMSON. With great respect for Mr. Dana, I am meeting the proposition as I find it in his argument not, as he chooses to cut it down. It is thus stated:

That the deep-sea fisherman, pursuing the free-swimming fish of the ocean with his net or his leaded line, not touching shores or trawling the bottom of the sea, is no trespasser, though he approach within three miles of a coast, by any established, recognized law of all nations.

I think the *onus probandi* lies on Mr. Dana and those who support such a proposition of showing that there is a special exception to be made in favor of fishermen of all nations by which they can enter, without permission, the territorial waters of another nation—a foreign nation—and be no trespassers. I have shown that the waters are territorial; that is all I have to do. The moment I show that the waters are territorial, then for all purposes they are as much part of the State as are the lands owned by the State, with the exception that vessels prosecuting innocent voyages may sail over them without committing any trespass; they may pass to and fro to their respective ports, but foreigners can pursue no business within those waters any more than they can pursue business on land.

Mr. DANA. Can nations inclose them?

Mr. THOMSON. In answer to that question, I say that nations cannot enclose them. Other nations have the right of way over them, and the right in case of tempest to enter the ports. Humanity dictates that. But no business can be pursued by the citizens of one nation within the territorial waters of another, whether that business be carried on by fishermen or by any other class of persons. That proposition is sustained by the authority I have read from Phillimore. I will show, however, that Sir Robert Phillimore does not stand alone, and that it is not the law of England only, but the law of the United States as well. I call

your attention to Wheaton on International Law, page 320. This language is used :

The maritime territory of every State extends to the ports, harbors, bays, mouths of rivers, and adjacent parts of the sea inclosed by headlands, belonging to the same State. The general usage of nations superadds to this extent of territorial jurisdiction a distance of a marine league, or as far as a cannon shot will reach from the shore along all the coasts of the State. Within these limits its rights of property and territorial jurisdiction are absolute, and exclude those of every other nation.

Mark the emphatic language of this great writer on international law :

" Within these limits its rights of property and territorial jurisdiction are absolute."

He declares that no right to interfere with these limits in any way is possessed by other people or by other classes of people. If fishermen had the right to approach within these limits of territorial jurisdiction which extend to the distance of three marine miles from the coast, no English-speaking writer on international law would use the term here employed, and say that every nation whose coasts are surrounded by these territorial waters has such an absolute right. Under such circumstances, the author would have used the term " qualified right "; and supposing that fishermen were the only class to be allowed within these waters, he would say at once that " these nations have this right against all the world, *except fishermen*, who undoubtedly have the right to fish within those waters if they do not touch the land with the lead of their fishing-lines or with the keels of their vessels "; but no one has so written, and this very accurate author, who is quoted with approbation by English and continental writers on international law, states that—

Within these limits its rights of property and territorial jurisdiction are absolute, and exclude those of every other nation.

This language, I repeat, is emphatic, and I am glad that it is the language of an American writer, because I presume that it will in consequence have greater weight with Mr. Dana.

MR. DANA. I would like to ask my learned friend whether he would himself be willing to adopt that language and say that these rights of property are absolute.

MR. THOMSON. Yes ; I have seen no decision which in any way qualifies that, unless it can be said that the case of the *Queen v. Keyn* (which is quoted against us in the American brief, and reviewed at some length in the British brief in reply) qualifies it. To that case, it will become my duty to refer by and by.

MR. WHEATON further states that " the general usage of nations superadds to this extent of territorial jurisdiction a distance of a marine league, or as far as a cannon shot will reach from the shore along all the coasts of the state."

Now, I say that the propositions of international law thus laid down by this very eminent American writer are entirely at variance with the doctrine laid down by Mr. Dana.

MR. DANA has put to me a question which I am quite willing to answer. It is this : Whether or no I would myself, if writing on the subject, use such language as that and say that a nation has exclusive right of property within its territorial waters ?

MR. DANA. Absolute right.

MR. THOMSON. Yes ; absolute right of property ; with the single exception—which is, of course, understood by all writers on the subject—that the ships of other nations have the right to pass through and by those waters for innocent purposes, and in cases of storm to enter har-

bors or to anchor in them for the purpose of shelter. I say that nations have such absolute right, and that there is no law of nations, no international law, or any other law anywhere, by which fishermen or any other class have the privilege of coming within those waters and fishing without the permission of the nation to whom those territorial waters belong and whose coasts they wash.

Let me now turn the attention of your excellency and honors to the case of the *Queen v. Keyn*, upon the authority of which Mr. Dana very much relies. In that case the prisoner was indicted for the crime of manslaughter alleged to have been committed by him on board a foreign ship, of which he was the captain, in the English Channel, and within three miles of the British shore. He was tried in the central criminal court of London, and convicted. A novel point of law was raised by the prisoner's counsel and reserved by the judge. In order to understand the bearing of that point, I think it right to explain to the Commission that, in order to clothe English courts of assize with the common-law jurisdiction to try offenders, the offense must have been committed within the body of a county. Unless so committed no grand jury could indict and no petit jury try or convict a prisoner. Those large bodies of sea-water within English headlands, called "King's Chambers," were considered to lie within the bodies of counties, as the case of the *Queen v. Cunningham* cited in the "British Brief" shows. No formal decision had ever, so far as I am aware, determined that the territorial waters lying around the external coasts of England were within bodies of counties. Over offenses committed upon the seas, and not within bodies of counties, the jurisdiction of the Lord High Admiral attached, and he or his deputies, sitting in admiralty court, tried and punished the offenders.

By a statute passed in the reign of William IV, the criminal jurisdiction of the admiral was transferred to judges of assize, and to the central criminal court. The substance of the objection raised by Captain Keyn's counsel was this: The realm of England over which the common law jurisdiction extends does not reach beyond the line of low-water, and therefore the court has no common law right to try the prisoner. In regard to the admiralty jurisdiction conferred upon it by the statute of William, that cannot affect the question, because the admiral never had jurisdiction over *foreign vessels* or over crimes committed on board of them. The court of appeal quashed the conviction, holding, by seven judges against six, that the realm of England did not at common law extend on her external coasts beyond the line of low-water. *But the judges who quashed the conviction all held that the Parliament of Great Britain had the undoubted right to confer upon the courts of the kingdom full authority to deal with all questions arising within her territorial waters around the external coasts.* Owing to the absence of such legislation, Captain Keyn escaped punishment.

The court of appeal in this case was composed of thirteen judges, and it is well to bear in mind that the authority of the judgment is greatly weakened by the fact that six were one way and seven the other.

MR. DANA. One of them died.

MR. THOMSON. Judge Archibald died, I think; and after his death the decision of the court letting the man go free, and holding that the central criminal court had no jurisdiction in the matter, was given by the casting vote of the Lord Chief Justice of England, Sir Alexander Cockburn.

I was surprised at Mr. Dana, who, whilst commenting on this case—I

presume that he had not read it very recently—stated that the common law lawyers were greatly puzzled and that the civil law lawyers alone——

Mr. DANA. I said other lawyers, other than those who were strictly trained in the common law.

Mr. THOMSON. I think that I can give your exact language.

Mr. DANA. You will find it on page 71 of our argument.

Mr. THOMSON. Mr. Dana said:

The Franconia case, which attracted so much attention a short time ago, did not raise this question, but it is of some importance for us to remember. There there was no question of headlands. It was a straight-line coast, and the vessel was within three miles of the shore. But what was the ship doing? She was bearing her way down the English Channel against the sea and wind, and she made her stretches toward the English shore, coming as near as safety permitted, and then to the French shore. She was in innocent use of both shores. She was not a trespasser because she tacked within three miles of the British shore. All this I conceded. It was a necessity, so long as that channel was open to commerce. The question which arose was this: A crime having been committed on board of that ship while she was within three miles of the British coast, was it committed within the body of the county? Was it committed within the realm, so that an English sheriff could arrest the man, an English grand jury indict him, an English jury convict him, under English law, he being a foreigner on board a foreign vessel, bound from one foreign port to another, while perhaps the law of his own country was entirely different? Well, it was extraordinary to see how the common-law lawyers were put to their wits' end to make anything out of that statement. The thorough-bred common-law lawyers were the men who did not understand it; it was others who sat upon the bench who understood it better.

Now, I mean to say, that when my learned friend delivered himself after this manner, I think that he forgot who composed the bench on this occasion. That bench was wholly composed of common law lawyers, with the solitary exception of Sir Robert Phillimore. The only civil-law judge who then sat on the bench, out of the whole thirteen, or whatever was the number, was Sir Robert Phillimore; and the judgment of the majority of the court was determined by a casting judgment, which was delivered by the Lord Chief Justice, against the jurisdiction of the Crown; and of course this is a decision of which I understand that Mr. Dana approves. So far, however, from the common-law lawyers having had nothing to do with this finding, the fact is, that if it had not been for the common-law lawyers, no such decision would have been given at all.

Mr. DANA. I do not include the equity and chancery lawyers among the others.

Mr. THOMSON. No equity or chancery lawyers sat on the bench—not one; all the judges who sat on that bench were common-law judges, except Sir Robert Phillimore, who was a judge of the high court of admiralty; and, as I have stated, the casting decision was given by Lord Chief Justice Cockburn, himself a great common-law lawyer.

How was the Parliament of England to exercise or give jurisdiction over these waters, unless they were within the territorial jurisdiction of the nation, for neither the Parliament of England nor the parliament of any other country can possibly make laws for the government of the high seas? The moment you get within the three-mile line of coastal sea you are within the jurisdiction of the country whose coast is washed by those waters. The Lord Chief Justice decided on a technical ground against the authority of the Crown, but further stated his conviction—and so also expressly held all the other judges who agreed with him—that it was within the province and the power of the British Parliament to pass an act by which its own jurisdiction and the jurisdiction of the courts (over these territorial waters which washed the coast) could be established and maintained; therefore, so far from this judgment being against the doctrine that there are such territorial waters, it is the very best authority which could possibly be given for saying that such jurisdic-

tion does exist. If it were not for the law of nations, the very moment that you got beyond the realm, that is to say, on the coast just below low-water mark, the nation would have no jurisdiction over you, and parliament could not touch you at all, as you would then be on the high seas; but by the law of nations, all civilized countries have this jurisdiction within the three-mile line, and hence, the parliament or other legislative body existing within the country can pass laws governing this territory; and it was only the absence of these laws that induced the Lord Chief Justice and the other judges to arrive at the decision to which they came. I therefore think, may it please your excellency and your honors, that I have refuted this proposition of Mr. Dana's, and refuted it by the authorities of his own country, as well as by British authorities.

Mr. DANA. Which proposition do you mean, the one that I put or the one which you put?

Mr. THOMSON. I refer to the one which you put, viz, that there is no exclusive jurisdiction enjoyed by any nation over its territorial waters.

There is now another thing to be mentioned. What is the practice of the United States herself? Why, the United States has never permitted any vessel of any foreign country to approach her coasts within the three-mile limit to fish there. They have uniformly excluded such vessels; and not only have they uniformly excluded them from within the three-mile limit, but further, they have also rigidly excluded them from the large bays, such as the Chesapeake and Delaware Bays, and bays of a similar description—not bays which are merely six miles in width at the mouth, but many miles beyond. The whole practice of the United States is entirely against Mr. Dana's theory; and what is the practice as recognized by this very treaty, under which your excellency and your honors are now sitting,—this Treaty of 1871? What do you find is here given by Great Britain to and accepted by the United States? It is the right to enter our territorial waters; and the United States gives to Great Britain, and Great Britain accepts from the United States the right to enter her territorial waters; and she absolutely not only gives that right, which England accepts—and England admits her right, or otherwise she would not accept the grant—but the United States also go a step further, and say that “although we give you the right to come on our coasts and fish in our waters within this privileged and territorial distance; yet we warn you that we only give you that right for the portion of our coasts lying to the northward of the 39th parallel of north latitude.” Can anything be clearer than that? It is in the face of that declaration of the United States herself, that one of her counsel, in arguing this case, advances this most extraordinary doctrine. If Mr. Dana be right about that matter, then the 39th parallel of north latitude is no barrier at all to our fishermen; and we have the right to go down and fish where we please along the whole length of the coast of the United States. But do you think that this would be tolerated for a moment? What would be said of us if we attempted it? Would it not be this: “You have admitted our rights, and we have admitted your rights; then how dare you come to the southward of that line?” What could be said to that? Why, clearly nothing, save that we were infringing our agreement.

And then, although I do not know that this, in itself, would have very much strength as an argument, it might be mentioned that in 1818 the Americans agreed, not, on any account whatever, to come within three miles of our coasts; but we never made any agreement not to come within three miles of their coasts. At all events, we are not ham-

pered by any such agreement; and if this novel law be correct, as Mr. Dana lays it down, then beyond a doubt we have a right to fish on their coast anywhere we please. There can be no doubt about that at all. It belongs to the law of nations, says Mr. Dana, that, as long as our leaded line does not touch bottom, and our vessel's keel touches no sand beneath the water, we have the undoubted right to go there and fish; but I am very much afraid that the Americans would treat us to some of their torpedoes if we were so to go down there, and explode us out of those waters in a very short time; and I think that we would, under such circumstances, have very scant sympathy from the civilized world. What does Mr. Dana, or the other counsel in this case, mean by raising this question? A number of the observations made by Mr. Dana, in the course of his speech, I could understand would well become the hustings. I could well understand, that in a speech before a legislative assembly, having a jurisdiction over the matter, for the purpose of getting such assembly to alter the law, he might advance such reasons and argument to show why the law should be altered; but are we not now met—the very point which has been forgotten by some of the counsel—to determine the relative values of reciprocal privileges bestowed on each nation by the Treaty of 1871? Is not that treaty the charter under which you sit; and does not that expressly admit that we have this three-mile limit? And have not the Americans accepted all our terms? They get permission, by that treaty, to enter these limits; and you are here to assess the damages which they ought to pay to Great Britain for having that right extended to them. Why are these questions raised at all?

I must now refer to some language employed by Mr. Dana, which, I hope, he used unadvisedly. I am not going to say a harsh word at all; but, I confess, it struck me that a great deal of what he said was out of place; and I only refer to it for the reason which I stated at the outset, that I cannot pass by these observations without notice, lest it should be said hereafter that they were put forth by a man of high reputation at the United States bar, and therefore advanced seriously on behalf of the United States, and that Great Britain stood here, represented by her counsel, and never dissented from these views. Let me now say what they are. I will first take one expression which he uses on page 96. He says:

But there were great difficulties attending the exercise of this right of exclusion—very great difficulties. There always have been, there always will be, and I pray there always shall be such, until there be free fishing as well as free trade in fish.

Now, I hope that my learned friend Mr. Dana used that language unadvisedly. If Mr. Dana had been a member of a high commission appointed to settle upon new treaties between two countries—two great and Christian countries, as Mr. Foster characterized Great Britain and the United States—this language might then be used, and he might then pray that the time would come when there should be no such exclusion; but I think it is a very different thing when the law stands as it does, fixed, and as yet unaltered and unalterable for the next seven or eight years, to employ this dangerous and incendiary language. I use the term incendiary in this way: I fear that this language will come to the ears and be read by the eyes of a class of men whom the evidence laid before your excellency and your honors, if it be not entirely untrue, shows are not always the most peaceable and law-abiding citizens to be found in this world. Those fishermen are sometimes rather lawless men; and if they find language such as this used by the lips of a learned and eminent counsel of the United States, they may say at once: "This is United States doctrine, and they will back us up, and if we break through

these laws, which we know perfectly well were passed for the purpose of preventing us having these rights, and passed for the purpose of preventing us entering these waters, the United States will back us up, for she has said so through her counsel." I deprecate that language very much.

In this connection I will point out some other sentences from which I entirely dissent for the same reason. I will take the following statement, which will be found on page 71 of the argument :

There was, at the same time, a desire growing on both sides for reciprocity of trade, and it became apparent that there could be no peace between these countries until this attempt at exclusion by imaginary lines, always to be matters of dispute, was given up—until we came back to our ancient rights and position. It was more expensive to Great Britain than to us. It made more disturbance in the relations between Great Britain and her provinces than it did between Great Britain and ourselves; but it put every man's life in peril; it put the results of every man's labor in peril; and for what? For the imaginary right to exclude a deep-sea fisherman from dropping his hook or his net into the water for the free swimming fish that have no habitat, that are the property of nobody, but which are created to be caught by fishermen.

I again say that these views might possibly be properly advanced by high commissioners appointed to settle upon new treaties between nations; but in respect to a definite treaty, which cannot be altered, and over which this Commission has no power whatever, this language ought never to have been uttered.

Again, on page 72, we find the following:

That, may it please the tribunal, is the nature of this three-mile exclusion, for the relinquishment of which Great Britain asks us to make pecuniary compensation. It is one of immense importance to her, a cause of constant trouble, and, as I shall show you—as has been shown you already by my predecessors—of very little pecuniary value to England, in sharing it with us or to us in obtaining it, but a very dangerous instrument for two nations to play with.

Now, I cannot conceive why any danger should exist in connection with any solemn agreement made by two great nations which clearly understood their respective rights under that agreement. I am not now talking of the headland question at all. I am not discussing that; but there is an explicit agreement that these people shall not enter within three miles of the land, and how that became a "dangerous instrument," unless one or other of the parties to it intend to commit a breach of it, I cannot understand. Of course Great Britain does not intend to commit any breach of it, because she gained no privilege under it; and unless the United States fishermen intend to violate it, and the United States intend to uphold them in committing this breach of international law and this breach of faith, I cannot see where this "dangerous instrument" is.

MR. DANA. Does the learned counsel refer to the present treaty.

MR. THOMSON. O, certainly not. As I stated at the outset, I cannot perceive why this language was used at all, because, under the treaty by virtue of which you are now sitting, there is no question about this at all. The Treaty of 1818 has nothing to do with this inquiry, except, indeed, showing how Americans were formerly excluded from the limits, and, therefore, what privileges they had under it.

So, on the same page (72) he says, after alluding to the abrogation of the Reciprocity Treaty:

We were remitted to the antiquated and most undesirable position of exclusion; but we remained in that position only five years—from 1866 until 1871—until a new treaty could be made, and a little while longer, until it could be put into operation. What was the result of returning to the old system of exclusion? Why at once the cutters and the ships of war that were watching these coasts spread their sails; they stole out of the harbors where they had been hidden: they banked their fires; they lay in wait for the American vessels, and they pursued them from headland to headland and from bay to bay; sometimes a British officer

on the quarter-deck, and then we were comparatively safe, but sometimes a new-fledged provincial, a temporary officer, and then we were anything but safe. And they seized us and took us, not into court, but they took us into harbor, and they stripped us, and the crew left the vessel, and the cargo was landed, and at their will and pleasure the case at last might come into court. Then, if we were dismissed, we had no costs, if there was probable cause; we could not see if we had not given a month's notice, and we were helpless.

I repeat that I deprecate these terms. Who brought the cutters down upon them after 1866? Did Great Britain do so? Did the Dominion of Canada do so? Most certainly not. The United States did so. Their eyes were open to the consequences of their act, and the United States, under these circumstances, of their own mere motion, abrogated the Treaty of 1854, by which common privileges were given to American and British fishermen. It was their own act by which that treaty was abrogated; and, as a consequence, they were remitted to the old system of exclusion. We did not do this. According to Mr. Dana, during all this time, during the twelve years that this treaty was in force, our cutters were lying in all our harbors with their fires banked, and new-fledged officials, clothed in a little brief authority, strutting the quarter-deck, waiting to come out and make piratical excursions against American fishing-vessels.

Is that description borne out by the evidence? I appeal to your excellency and your honors whether that is language which ought to have been used on this occasion. I emphatically say that it is not. I say that it is calculated to excite a bad feeling amongst these fishermen, who are not too much disposed to be quieted by the law any way, and to make them more lawless in the future than they have been in the past.

I will now read another statement to which I take exception. It is to be found on page 73. While speaking of the imposition of the licenses and of their prices being raised, &c., he said this:

Why, this was the result—I do not say it was the motive—that it left our fishermen unprotected, and brought out their cutters and cruisers, and that whole tribe of harpies that line the coast, like so many wreckmen, ready to seize upon any vessel and take it into port and divide the plunder. It left us a prey to them and unprotected.

Now, may it please your excellency and your honors, I would be less than a man, and be doing less than my duty, if I did not repudiate that language, and if I did not say there is not a tittle of evidence to warrant that language being used in this court. This is not a matter to laugh at and joke about at all. These are serious statements, which go forth to the public, and statements which, if they are uncontradicted, are calculated to prejudice not only the good relationships which subsist between the United States and Great Britain, but also those that exist between Great Britain and the Dominion of Canada herself. If it were true that her officers were a set of harpies, preying on the United States fishermen, and seizing their vessels, taking them into their harbors, and dividing the plunder, it would be time that England should interfere; but such is not the case. I appeal to every member of this Commission, to your excellency and your honors, whether there has been a tittle of evidence adduced warranting the use of language such as that. We have had no evidence at all upon this subject, except the testimony, I think, of a witness whose name I forget, and who gave evidence about a Mr. Derby, who commanded one of the government vessels. He stated that Captain Derby came on board and was going to seize the vessel, when the master said that he would go on board of the cutter, see Mr. Derby, and settle the matter up; and that the master, when he came back, said that he had settled it up with Mr. Derby for 25 barrels of mackerel. On cross-examination of this man, I discovered,

by his own admission, that they had been in the harbor of Margaree that morning, or somewhere on the coast of Cape Breton, and had then taken more than 25 barrels of mackerel within the three-mile limit.

So that, if his statement were true, all that Captain Derby had done was, instead of putting the law into force and seizing that vessel, and confiscating her tackle and apparel and furniture and all the cargo she had on board, he had let the man off by taking only 25 barrels, which had been caught within British limits.

Does that look like the act of a man who was a "harpy" or a "pirate," or who was disposed to "divide the plunder"? But I say, moreover, it is convenient to make these charges—I speak now of the witnesses, and not of Mr. Dana—it is convenient for a witness to make charges against a man who is dead. Captain Derby is now lying in his grave. The tongue that could come forward and show the falsehood and slander of that statement is silent forever; and it is cheap work for this witness, with respect to a dead man, to say that such and such a thing was done, when he knows that the falseness of his statements cannot be proven. I pay very little respect to such testimony; and, with the exception of this, not a particle of evidence has been presented in the course of this long inquiry which would justify the making of this very serious charge by Mr. Dana. On behalf of Her Majesty's Government, I repudiate that language; I say that it is not called for in this case, and that there are no facts proven to warrant it.

Again, we have very strong language used in reference to Mr. Pattilo, and it has been said that if a portion of his blood had been shed the seas would have probably been "incarnadined." But what is Pattilo's own statement? A curious subject was Mr. Pattilo to go to war about. What kind of a character he was when young I know not; but some person told me that he had experienced religion before he came into this court. I thought that if he had, the old man was not entirely crucified in him when he gave his evidence there. What did he tell you? That he was a Nova Scotian by birth; that he went to the United States, as he had a right to do, and that he took the oath of allegiance there, as he had a right to do. And when I put him the question as to whether, when he had taken this oath of allegiance, he had not taken an oath of abjuration against Queen Victoria and everything British, he admitted that he had. Now, in this there was nothing criminal. He had a perfect right to take the oath of allegiance there; and certainly nobody cared to have him remain in Nova Scotia. But what did he do? After becoming an American citizen, and a citizen more American than they are themselves, he takes his vessel into the gulf and systematically trespasses on our fisheries. It is not attempted to say that when it suited his convenience he did not go in and trespass on our fishing rights. He had no scruples, when it suited him to do so, about fishing inside the limits, and so far did he carry this matter that he absolutely sailed up into the territorial waters of Newfoundland, and got into the ice close up to the shore; and when some officers came there he armed his crew and set them all at defiance. He said that he drove away the "whole calabash" of the officers. At all events he kept them off, and staid there the whole winter, cutting holes in the ice, fishing, taking herring up, and walking off with them. This man did not appear to understand that there are national rights which he could at all infringe. Was a man like that a man to go to war about?

Take his own account of the circumstances and of the shots fired at his vessel, and what was it? He was passing through the Gut of Canso, and having the advantage of those very lights which one of the consuls

of his adopted country, Mr. Norton, has stated in his dispatches to be absolutely necessary to their fishermen, and for which they ought to pay. Now for the use of these lights, which save vessels from being destroyed, which warn them of their danger, when danger is near, he refused to pay the dues; he does not pretend to say that he did not know that the officer in question had a perfect right to collect these duties, but nevertheless, instead of paying, he asks, "Where are your papers?" The officer replies, "I have left my papers on shore." Then, exclaims Pattilo, "Be off out of here;" and he gives a most graphic description of how he turned the officer into his boat. I should think that he was a nice subject to go to war about.

Mr. FOSTER. This affair arose, not because he would not pay the light-dues, but because he had the charity to bring home a woman.

Mr. THOMSON. No; it occurred on account of the refusal to pay light-dues.

Mr. FOSTER. There is no evidence to that effect.

Mr. THOMSON. I will turn to the evidence and we will see. I think that your excellency and your honors will recollect that it was the light-dues which the officer wanted to collect. If Pattilo stated that it was for bringing home and landing a lady who wanted to be landed there, I should say at once that you would not believe it. To suppose that any officer of any English or Dominion cutter would undertake to fire shots after him, because he landed a lady to whom he had charitably given passage to some place in the Gut of Canso, is simply too ridiculous a supposition to be tolerated for a moment. Well, I will not take up your time now with this subject, but if my learned friend will turn to the evidence, and point out that I am mistaken in saying that the trouble arose with reference to the light-dues, I will admit my error.

Mr. FOSTER. Will you read these two paragraphs?

Mr. THOMSON. In the course of my cross examination of this witness, the following evidence was given:

Q. Were you lying close inshore?—A. I was at anchor and not fishing.

Q. Lying close inshore?—A. Yes, right close in, under Margaree for shelter. He did not attempt to take me; if he had I would have given him a clout, but he took another vessel, the Harp, Captain Andrews. I kept a watch all night, but they did not come alongside; if they had, we would have given them grape-shot, I bet.

I thought that I could not be mistaken at all about it.

Q. Had you grape-shot on board?—A. We had a gun, loaded with slugs or something of that sort.

Q. In fact, then, you were never boarded by a customs or seizing officer?—A. I was boarded by an officer who came for light-money, at Little Canso, that same year.

Q. Did you pay the light-money?—A. No.

Q. Why?—A. Because this man was not authorized to receive it.

Q. What did you do?—A. I hove him into his boat, of course, and got rid of him.

Q. You knew that the light-money was due?—A. Certainly; and I was willing to pay it, had the right man come for it.

Q. Did he represent himself to be a custom-house officer?—A. Yes.

Q. Did you ask him for his authority?—A. Yes.

Q. And did he show it?—A. No.

Q. And then you threw him overboard?—A. I told him he had to leave, and seeing he would not go, I seized him by the nape of the neck and his breeches and put him into his boat.

There is an express distinction made in his statements.

Mr. FOSTER. You want to read only what you please of the whole story. Read on.

Mr. THOMSON. If Mr. Foster seriously thinks that I am wrong in saying that this man refused to pay the light-money, I will do so. The officer distinctly came to collect the light-money; and this man put the officer

overboard, and into his boat. I will continue the quotation: "He was bound to take me because I had landed a poor girl."

Q. Was this girl contraband?—A. Yes, I suppose they called her so at any rate. I do not know that she is now in town, but she became lawyer Blanchard's wife afterwards. I merely took her on board as a passenger, and landed her. Afterwards I was fired at and chased by three cutters.

Q. For putting this officer overboard?—A. No, I did not put him overboard, but I put him into his boat.

Q. In lawyer's phrase, did you gently lay hands on him?—A. I put him in his boat in the shortest way. He stripped off and said it would take a man to handle him, but I made up my mind that he should not stop, though I did not want to fight; still I was quite able to take my own part. I talked with him and told him that I had merely landed a poor girl with her effects, a trunk and a band-box, &c.; but this would not do him. When he came on board he asked, "Who is master of this vessel?" Says I, "I am for lack of a better." Says he, "I seize this vessel," and with red chalk he put the king's broad R on the mainmast. He wanted the jib hauled down in order to have the boat taken on board. We had not come to an anchor; but I told him that he would have to wait a while. Finally he came down below and I took the papers out of a canister, and being a little excited, of course, in hauling off the cover a receipt for light-dues, which I had paid that year, dropped on the fore-castle floor. He picked it up and said he would give me a receipt on the back of it. Says I, "Who are you?" He answered, "I am Mr. Bigelow, the light collector." Well, says I, "Where are your documents?" Says he, "I have left them ashore." Then, says I, "Go ashore, you vagabond, you have no business here." Says he, "Won't you pay me?" "Not a red cent," says I; "out with you." He cried out, "Put the helm down." Says I, "Put the helm up;" but he came pretty near shoving us ashore, as we were within 10 fathoms of the rocks. Says he, "Who are you?" I said, "I am Mr. Pattullo." Says he, "You vagabond, I know the Pattullos." "Well," says I, "then you must know me, for there are only two of us." Says he, "I will take you, anyhow. I will have a cutter from Big Canso. There will be a man-of-war there; and if there is not a man-of-war, there will be a cutter; and if there is not a cutter I will raise the militia, for I am bound to take you." I asked him if he meant to do all that, and he said he was just the man to do it. I seized him to put him back into his boat, and he stripped off and told me that it took a man to handle him. With that I made a lunge at him, and jumped ten feet. If he had not avoided me, I would have taken his head off his body. I then seized him and chucked him into his boat. Then three cutters came down and chased me.

Now, there is the whole story. It is perfectly ridiculous to suppose that the officer, when he went down to collect the money, went down to seize the vessel.

Mr. FOSTER. The whole of that recital is something which you introduced in your cross-examination.

Mr. THOMSON. I certainly introduced it in my cross-examination. There can be no doubt about that at all. There were a good many disagreeable things which I introduced into my cross-examination of American witnesses. I was probably here for that purpose. It was hard to get at all that this gentleman had done; but I wanted to discover it, and there is the story as told by himself. Taking his story according to his own account, it is this: He and the officer went down into the cabin, and the officer supposed that he was going to pay the light-dues. This man opened a canister, and a former receipt for light-dues fell out. The officer was going to give him a receipt on this paper, when Pattillo asked, "Where is your authority?" followed with "Get out, you vagabond," when he found that the officer had not his papers with him. In reference to Mr. Dana's uncalled-for remarks reflecting upon the officers of cruisers which from time to time have been engaged in protecting our fisheries against the trespasses of American fishermen, I deem it my duty to make a few observations. To the instructions issued, in April, 1866, by Mr. Cardwell, secretary of state for the Colonies, to the lords of the admiralty, I have already had the honor to call the attention of this Commission.

The spirit of forbearance and courtesy in which they were written speaks for itself. No unprejudiced mind can fail to appreciate it. The instructions issued by the Dominion Government for the guidance of its

own cruisers are nearly similar in form, and wholly similar in spirit, to those issued by the mother country. And here I would remark that the Imperial Government does not appear to have entertained for Dominion commissions the same contemptuous opinion which, unfortunately for us, has taken possession of Mr. Dana's mind.

You will see that each of the Imperial officers is advised to obtain, if possible, commissions from the Dominion Government.

Mr. Caldwell says, "Any officer who is permanently charged with the protection of the fisheries in the waters of any of these colonies may find it useful to obtain such a commission."

Now, you will see that, under these instructions, no power of immediate seizure was given, although such power to seize existed under the Convention of 1818, and under a statute of George III., passed to enforce that Convention; yet so liberal was the British Government that they absolutely required cruisers, before seizing any one of these vessels which might be found trespassing over the lines, to give a warning of two or three days, and sometimes of twenty-four hours, as the case might be. You can see at once what was the effect of giving these instructions—every American vessel, unless she persistently remained in these waters, and fished contrary to law, must of necessity escape. If they were found fishing in prohibited waters, they were warned off, and told not to offend again, but they could not be seized, of course, unless they committed an offense contrary to that warning; and yet these officers are represented as if they were a body of naval freebooters. If you judge of their character from the language of Mr. Dana, you would imagine that they were a lot of pirates who remained in their harbors, with fires banked and steam up, ready to rush out on unoffending fishing vessels, to catch and bring them into port, and then to divide the plunder. This is the most extraordinary language that, I think, was ever used to characterize a respectable body of men, or that will ever again be used in any court, and especially in a high court of justice, such as this. The instructions state that:

American vessels found within these limits should be warned that by engaging or preparing to engage in fishing, they will be liable to forfeiture, and should receive the notice to depart, which is contemplated by the laws of Nova Scotia, New Brunswick, and Prince Edward Island, if within the waters of one of those colonies under circumstances of suspicion. But they should not be carried into port except after willful and persevering neglect of the warnings which they may have received, and in case it should become necessary to proceed to forfeiture, cases should, if possible, be selected for that extreme step in which the offense of fishing has been committed within three miles of land.

Mr. FOSTER. What year is that?

Mr. THOMSON. 1866. April 12th. This was just after the expiration of the Reciprocity Treaty.

Mr. FOSTER. Vessels were seized without warning.

Mr. THOMSON. Eventually, this was the case, simply because it was found to be of no use to treat these fishermen in this lenient manner. It had no effect on them, if they could in any way possibly avoid the cutters. They took these concessions rather as a right than as a favor, and in every instance in which they were tried, took the advantage they conferred without showing any gratitude at all. They endeavored at all hazards, to force themselves into these bays; and then eventually to force themselves into the prescribed limits; and so it was at last found necessary by the Dominion Government to give up the warning system. It was found, that to warn these vessels was simply to give them the right, the moment that they received warning, to sail out, and then the moment that the cutter turned her back to sail in again; that is to say, they saved themselves from being caught by a cutter at all. They re-

ceived several warnings, I think, and even if they had only one, they had the chance to escape, and the result, of course, was that nothing at all was done towards repressing the evil. These instructions, therefore, had to be altered, and made more stringent; but nevertheless, it was still required that vessels should not be seized, except when caught *flagrante delicto*, and actually fishing, or preparing to fish, within the prescribed limit. In truth, to preserve these waters, as they ought to be preserved, the moment that a vessel has once entered the limit, and incurred forfeiture, no matter where she sails to afterwards, she should be liable to be seized, and ought to be seized in my humble judgment, and condemned, unless it could be clearly shown that the captain, when he entered such limit, supposed that he was not committing any breach of the law, and believed that he was four or five miles offshore, when in fact he was within the three-mile limit. In such case, of course, no harshness should be extended towards him. I will show you, however, before I get through, that the American Government itself, having heard of these complaints—I dare say, very much in the language which Mr. Dana has thought proper to use on this occasion—sent down Commodore Shubrick to make inquiries into this matter; and you will find that Commodore Shubrick found that these stories were utterly unfounded.

A dispatch dated September 9, 1853, was as follows:

No. 23.]

PRINCETON, AT PORTSMOUTH, N. H.,

September 19, 1853.

SIR: My dispatches from the 1st to the 14th, inclusive, have informed the department of the movements of this ship up to the 16th of August.

After leaving Halifax, I ran along the coast of Nova Scotia to the Strait of Canso, which I entered on the evening of the 17th, and anchored at Sand Point. On the next day I anchored successively at Pilot Cove and Ship Harbor. At each of these places diligent inquiry was made of the masters of American vessels, and, at the last, of our consular agent, in relation to the treatment of our fishing vessels by the armed vessels of other nations, and no instance was learned of any improper interference. Some cases were reported of vessels having been warned off who were found fishing or loitering within three miles of the shores.

It was thought advisable to make particular inquiry in this strait, as it is the passage through which great numbers of vessels pass, and where wood, water, and other supplies are obtained; and although there were not many Americans in it at the time of our visit, I was informed by the consular agent that in the course of the last year eleven thousand vessels, of all kinds, were counted passing through both ways, and some must have passed in the night who were not counted.

From the Strait of Canso I went to Pictou. This port is the residence of the consul of the United States for the north coast of Nova Scotia, to whom complaints of interference would naturally be made, if any should be experienced within the limits of his consulate; but he had heard of none.

From Pictou I crossed over to Charlottetown, Prince Edward Island, and inquired into the case of the schooner *Starlight*, seized by Her Majesty's steamer *Devastation*; the official papers in relation to which were forwarded with my dispatch No. 15.

The *Fulton* having joined me at Pictou, accompanied me to Charlottetown, that some slight repairs might be made to her machinery, under the direction of Chief-Engineer Shock. She was dispatched on the evening of the 29th August, under instructions; copies of which accompany this.

Leaving Charlottetown, it was found necessary to anchor in the outer harbor of Georgetown in order to make some repairs to the engine of the *Princeton*—the necessity of which was not discovered until after we had left Charlottetown, but which, fortunately, could be done by our own engineers.

On the 2d September, at meridian, we anchored in Gaspé Bay, Lower Canada, having, in the course of the night and morning, passed through many hundreds of fishing-vessels, showing generally American colors. These were all fishing outside the bays. The ship passed slowly through them, with her colors set, but it was deemed best not to interrupt them in their fishing by hearding or running so near as to hail. If any one of them had complaint to make, communication could be easily had with the ship, and the slightest intimation of such a wish would have been immediately attended to, but none was made.

The *Fulton* was at anchor in the inner harbor. A copy of Lieutenant Commanding Watson's report of his proceedings, under my orders of the 29th ultimo, is with this.

Soon after I anchored at Gaspé, I was informed that the anchorage, which I had taken by advice of my pilot, was unsafe if it should blow a gale from the east—of frequent occurrence at this season. No pilot could be found to take so large a ship into the inner harbor, and, as night was approaching, I got under way and put to sea with both vessels. It had now become necessary to replenish our coal, and I determined to go to Sydney, in Cape Breton Island, for that purpose.

I arrived at Sydney on the 4th, the Fulton in company, and, after taking on board a supply of coal for each vessel, put to sea again on the morning of the 9th.

After a passage protracted by strong head winds, and a part of the time by thick weather, we anchored at St. John, New Brunswick, on the afternoon of the 13th.

A large number of persons, estimated at fifty thousand, were congregated at this place to witness the ceremony of breaking ground for the European and North American Railway. The occasion had brought the lieutenant-governor of the province, Sir Edmund Head, to St. John. We received from the lieutenant-governor and the authorities of the city the most cordial welcome, and every hospitality was extended to us, nationally and individually.

The absence from St. John of the consul for the United States prevented my getting any official information on the subject of the fisheries; but from no source could I learn that there had been any occurrence of an unpleasant nature; and by all persons, official and private, here, as in the other provinces, a most anxious desire was expressed that the rights and privileges of the citizens of the United States, and of the inhabitants of the provinces, in relation to the fisheries, might be so distinctly defined, and so authoritatively announced, that there should be no room for misunderstanding, and no possible cause for irritation on either side.

I left St. John on the morning of the 17th instant, the Fulton in company, and anchored outside of this harbor on the evening of the 18th, in a dense fog. This morning we have succeeded in getting to a good anchorage, off Fort Constitution.

It is with diffidence that, from the experience of so short a cruise, prosecuted, as is known to the department, under circumstances of unusual embarrassment, I offer a few suggestions as to the description of force most suitable for the protection of the fisheries, and as to the time most proper for its operations.

Some of the most valuable fisheries, such as those in Miramichi Bay, Chaleur Bay, and north as far as Gaspé, are carried on in small vessels and open boats, and close inshore. It, therefore, the privilege to fish in those bays is to be maintained by us, the vessels for that service should be small steamers of light draught of water. The shores of Prince Edward Island abound with fish of all kinds. The mackerel strike in early in the season, and can only be taken close inshore.

The fishing season around Magdalen Islands, through the Strait of Belleisle, down on the coast of Labrador, commences early in June. The herring fishing commences in George's Bay, Newfoundland, as early as April, and continues about a month. After that, the fishing on that coast is only for mackerel and cod; and it is to be remarked, that where mackerel is found, cod is also abundant. These fisheries are carried on in vessels of larger size, but still of easy draught of water; and the vessels intended for their protection should also be of easy draught.

The coasts of Nova Scotia, New Brunswick, the south side of Prince Edward Island, Cape Breton, Newfoundland, and Labrador, abound in good harbors, some of them capable of receiving and accommodating large navies; but there are numerous harbors to which the fishing-vessels principally resort, which will not admit vessels of heavy draught: and where the protected go, the protector should be able to follow. The narrow passages, the strong and irregular currents, and the frequent fogs and thick weather, with which the navigator has here to contend, point emphatically to steamers as the best force for this service.

One steamer of suitable size for the commanding officer, and two or three of smaller size and easy draught, having speed and power, with light armaments, would be sufficient for all the purposes of this station. Coal at a low price and of suitable quality could be contracted for at Sydney or at Pictou, both within the limits of their station; and the commanding officer, having his headquarters at Portland or at Eastport, might control their movements and make occasional visits to the different fishing-grounds himself.

The establishment of such a squadron would, I know, give great satisfaction to the citizens of the United States all along the coast from Boston to Eastport; of this we had unequivocal evidence in our reception at every port where we touched. It would afford also an opportunity for the introduction into the Navy of numbers of the hardy sons of New England, who, from rarely seeing a vessel of war, have imbibed unfavorable impressions of the public service. An infusion into the lower ratings of persons drawn from such a population would elevate the character of the service and enable it to maintain a discipline founded on good sense, moral rectitude, and patriotism.

The smaller vessels should be—one on the coast of Labrador, about Newfoundland; one about the Magdalen Islands, Cape Breton, and the Strait of Canso; and the other from Pictou, Prince Edward Island, and up as far as Gaspé, Lower Canada—all to leave the United States by the 1st of June, and return by the last of September.

It would not be advisable for any of the vessels to remain in the Gulf of St. Lawrence after the 15th of September: the gales by that time become frequent and severe; sharp frosts commence, and the tops of the Gaspé Mountains are generally covered with snow by the 1st of October. The north side of the Bay Chaleur has been known, I am informed, to be frozen to some extent by the middle of September.

I should do injustice to the excellent officer in command of the Princeton, Commander Henry Eagle, if I failed to make known to the department the able and cheerful assistance in the execution of my duties that I have received at all times from him, and from the accomplished officers under his command.

The Fulton, Lieutenant Commanding Watson, has been most actively employed, a great part of the time under my own eye. She has been managed with great judgment; and I am under obligations to her commander and officers for the alacrity with which my orders have always been carried out.

The Cyane and the Decatur, though cruising under my instructions, have not been with me. The reports of Commanders Hollins and Whittle are doubtless before the department; and, from my knowledge of those officers, I feel that they will be perfectly satisfactory.

Since writing the above, the report of Commander Hollins has been received, and is here-with inclosed.

I have the honor to be, sir, your obedient servant,

W. B. SHUBRICK,
Commanding Eastern Squadron.

Hon. J. C. DOBBIN,
Secretary of the Navy.

There is not one word in the whole of this report which shows that anything had taken place for which there was cause for any complaint whatever; and Lieutenant Commanding Watson, of the United States Navy, wrote the following dispatch, addressed to Commodore Shubrick:

UNITED STATES STEAMER FULTON,
Gaspé, Lower Canada, September 2, 1853.

SIR: In accordance with your instructions of the 29th ultimo, I have the honor to report that I received on board at Charlottetown, Prince Edward Island, Major-General Gore, commander-in-chief of Her Britannic Majesty's forces in Nova Scotia, and staff, hoisted the English flag at the fore, and proceeded to Pictou, where I landed them. General Gore expressed himself much gratified at your having placed the Fulton at his disposal.

After parting from you off the island of Pictou, I proceeded, according to your directions, along the north side of the island, in Miramichi Bay, Chaleur Bay, and to Gaspé, where I was in hopes of meeting you. It was my intention to have gone farther up the Bay of Chaleur; but a heavy sea induced me to run for Gaspé. While there, Her Britannic Majesty's steam sloop of war Argus, Captain Purvis, came in. Captain Purvis immediately came on board, and an interchange of civilities took place on the most friendly and courteous terms. Captain Purvis states that he has not had the least difficulty with our fishermen, with one exception, and that so slight as not to be taken notice of.

On my way to this place, I passed between five and six hundred fishermen; and, in my conversation with these I spoke to, there appears to be the greatest harmony existing between them and the inhabitants.

On coming to anchor here, I waited on the collector and authorities of the port; and their statements tend to confirm my previous reports, that, so far from any dissatisfaction being felt at our fishermen, they are welcome on the coast, and nothing has yet transpired to alter my previously expressed opinion.

Very respectfully, I remain, your obedient servant,

J. M. WATSON,
Lieutenant Commanding, United States Navy.

Com. WILLIAM B. SHUBRICK,
Commanding Eastern Squadron.

Now, these are American official documents, which certify as to the treatment that the American fishermen had received at the hands of the cruisers up to that time. In order to show further what this treatment was I will mention the case of the Charles, which was seized by Captain Arabin, of the Argus, at Shelburne, on the 9th of May, 1823. Although this happened a long time ago, I cite it to show how the British Government treated these matters then and ever afterward. The Charles was actually seized in the very act of fishing; and there could be no doubt about the right to condemn her. But the midship-

man who was put in charge of her, while in the course of his passage from Shelburne to St. John, according to the instructions of Captain Arabin, stopped some other vessels which were fishing, and, I think, brought one or two of them into St. John. The *Charles* was then put in the admiralty court and condemned; but when the British Government learned what had been done, inasmuch as Captain Arabin had exceeded his instructions by using the vessel as a cruiser while *en route* from Shelburne to St. John, before her condemnation, not only gave her up, but also paid the costs of the prosecution, and the other two vessels which had been so taken—whether they were liable to condemnation or not I do not know—were also given up. This was the treatment which American fishermen received at the hands of the British Government.

Again, at Grand Manan, two vessels were taken by cruisers in 1851 or 1852—I think they were called the *Reindeer* and *Ruby*—or before that, because the account of this affair is found in the Sessional Papers of 1851 and 1852. They were actually taken in one of the inner harbors of Grand Manan; a prize crew was put on board, and they were sent to St. Andrews; but on their way up, as these two schooners passed Eastport, as they necessarily had to do, an armed force came out from Eastport, headed by a captain of militia, overpowered the crew, and took possession of them. Correspondence ensued on this subject—to which I call your attention—between the British Ambassador and the American Secretary of State, in which it was pointed out by the former that this outrage had been committed on the British flag; but through the whole of this correspondence I cannot find any apology was ever made, or that the British Ambassador's remonstrances on that subject were even answered.

I only see, in looking over the correspondence—also as given in the American Sessional Papers—that a demand by the British Government for reparation was made; they did not demand the punishment of these men or even the restoration of the vessel; but simply demanded some acknowledgment for the outrage which had been committed on the British flag; and yet that was never made.

This conduct, I think, may be contrasted pretty fairly with the treatment which the Americans received at the hands of Great Britain, when Great Britain could have enforced the laws against them. The official list of the vessels that were seized was put in evidence, I think. I now call your attention to it; you will find in looking over it that in every instance where condemnation took place there was no doubt that a breach of the law by American fishermen had been committed. There is one matter in this connection to which I desire to call your attention; it is to be found in the official correspondence, No. 17, and it throws some little light, I think, upon the extraordinary charges which Mr. Dana, I consider, has somewhat too hastily made. It is No. 17 of the official correspondence put in; it is a return of American vessels detained and prosecuted in the registered court of vice-admiralty at Charlottetown

REGISTRY OF THE COURT OF VICE-ADMIRALTY,

Charlottetown, October 6, 1852.

A return of American vessels detained and prosecuted in this court for a violation of the convention made between the Government of Great Britain and the United States of America in the year A. D. 1818, and prosecuted in this court.

Name of vessel.	Date of seizure.	Date of condemnation.	Remarks.
Schooner Florida, of Gloucester, United States of America.	3d August, 1852.	7th September, 1852.	{ Detained by Her Majesty's schooner Telegraph, Hon. H. Weyland Chetwynd, commander, on the northern coast of Prince Edward Island.
Schooner Union, of Brooklyn, United States of America.	20th July, 1852.	24th September, 1852.	
Schooner Caroline Knight, of Newburyport, United States of America.	11th September, 1852.	*Not yet adjudicated.	Detained by Her Majesty's steam sloop Devastation, Colin Yorke Campbell, commander, on the northern coast of Prince Edward Island.

*Subsequently condemned.

WILLIAM SWABFY, Registrar.

In addition to this return, the schooner Golden Rule, of Gloucester, U. S., was detained by the Telegraph, Lieutenant Chetwynd, and brought into Charlottetown. Before she was delivered over to the proper authorities, in terms of the imperial statute, Vice-Admiral Sir George Seymour arrived in Her Majesty's steam-sloop Basilisk, to whom the master of the Golden Rule appealed, stating he was part owner of the schooner, and would be ruined if she was condemned. The admiral, on the 23d August, left authority with the lieutenant-governor to direct Lieutenant Chetwynd to liberate the schooner, provided the captain acknowledged the violation of the convention, and that his liberation was an act of clemency on the part of the commander-in-chief. Bartlett, the captain of the Golden Rule, left such an acknowledgment in writing, which was forwarded to Sir George Seymour, along with an addition on a question from the lieutenant-governor, that he had stood inshore to fish, mistaking the Telegraph tender for one of his countrymen's schooners.

A. BANNERMAN,
Lieutenant-Governor.

PRINCE EDWARD ISLAND, October 11, 1852.

Here is the case of a man caught in the very act, but who made his appeal *ad misericordiam*, and was permitted to have his schooner back again simply because he said he would otherwise have been ruined. This is the treatment which American vessels have received at the hands of British officers. The treatment which British officers received in return is to be found recorded in the speech of Mr. Dana.

I will now pass to the next point. Mr. Dana, on page 74, says :

We were told that we were poisoning their fish by throwing gurry overboard, and for all that there were to be damages. Now, these inflammatory harangues, made by politicians, or published in the Dominion newspapers, or circulated by those persons who went about through the Dominion obtaining affidavits of witnesses, produced their effect, and the effect was a multitude of witnesses who swore to those things, who evidently came here to swear to them, and took more interest in them, and were better informed upon them, than upon any of the important questions which were to be determined. When we came to evidence to be relied upon, the evidence of men who keep books, whose interest it was to keep books, and who keep the best possible books, men who have statistics to make up upon authority and responsibility, men whose capital and interest and everything were invested in the trade, then we brought forward witnesses to whom all persons looking for light upon this question would be likely to resort.

A marked distinction is drawn, you will perceive, by Mr. Dana there, with regard to the witnesses called on behalf of Her Majesty's Government, as to credibility, and those heard on behalf of the United States. He refers to our witnesses in slighting terms, and says that they were brought here under the influence of inflammatory harangues, and articles published in Dominion newspapers, which Mr. Dana may have read, but which I never had the good or bad fortune to see. He states that they were brought here under that influence, and thus did swear to things which

they appeared to know a great deal about. Now, I think that I can contrast the testimony given on the part of Her Majesty's Government with that given on the part of the United States, without fear of any damaging conclusion being drawn against our witnesses. And I put it to your excellency and your honors whether during the long period that we have sat here, and witnesses on both sides have been called, a period extending over twelve weeks, at least, one single witness called on the part of the British Government broke down under cross-examination? And I ask whether it can be with truth said that this was the result of the cross-examination of the American witnesses?

I consider that in many respects a number of the American witnesses appeared to great disadvantage; and I am surprised not only at Mr. Dana's remarks in this respect, but I am also surprised at his following up his remarks on this point by saying:

When we came to evidence to be relied upon, the evidence of men who kept books, &c.

Why, if ever there was a breakdown that happened in this world, it was the breakdown which Mr. Low made under the cross-examination of my learned and clever friend and colleague from Prince Edward Island, Mr. Davies. That man came forward to represent the fishing-vessel owners of Gloucester and the fish-dealers of Gloucester; and he brought forward their books, or at least such books as they were pleased to show, and not the books we required to have, but their trip books; and he put in statistics, to which I will have the honor hereafter to call the attention of your excellency and your honors, for the purpose of showing very small catches made in the bay, and very large catches off on the American shore; and also for the purpose of showing that the catches in the bay resulted almost in the ruin of those who sent vessels there, while they made large sums of money out of their catches taken on the American shore; but when under cross-examination by Mr. Davies, what was the result? It was this, that those figures which were intended to establish, and which were brought forward here for the purpose of showing that state of facts, showed conclusively and proved directly the opposite.

Mr. Low, under Mr. Davies cross-examination, entirely broke down, and was compelled to admit that his figures proved the exact reverse of that which he had previously said and undertaken to prove; and the exact reverse of the pretended state of facts which his clients or his principals sent him here to prove. I am not misstating this matter at all. I will show you, when these statistics come to be considered, and from the figures themselves, and from the very admission of Mr. Low himself, that this was the result. If there ever was a man who was utterly destroyed on cross-examination it was Mr. David Low, the great statistician from Gloucester, who came up here intending to defeat us by cooked statistics and manipulated figures.

My learned friend Mr. Trescot, in the course of his observations, made a very humorous allusion to a time during the Revolution when a schooner came down to Prince Edward Island, captured the governor and council, and took them off and presented them to General Washington, who looked at them as curiosities, and then, as Mr. Trescot says, "Treated them as young codfish are treated, threw them back into the water, and told them to swim home again." Well, time brings its revenges, and the premier of Prince Edward Island, I think, revenged that insult to his island and his government, for the great Low from Gloucester came down here, prepared to destroy and bent upon destroying Her Majesty's case; but when he fell into the hands of my learned friend Mr. Davies, I think that he revenged that insult to his island. He captured Mr. Low,

turned him inside out, and utterly destroyed his testimony; and taking him to the water, if I may use Mr. Trescot's figure of speech, said, "Now, Mr. Low, I drop you down, and you had better swim back to Gloucester; and he swam back to Gloucester as fast as he possibly could. But I will show that after he got there he endeavored to retrieve his fallen reputation by sending down here affidavits which were probably thought to be beneficial to the American case, but which I will have the honor to show, if they do benefit the American case, benefit it in this way; and that is that every important statement made under oath in these affidavits will conclusively prove a precisely opposite state of facts to that set forth in the affidavits which were filed by the American Government in the earlier part of the case. If that be supporting the American case in any respect, I am quite ready to give them all the advantage that can accrue to them from it.

TUESDAY, *November 20, 1877.*

The Conference met.

The closing argument delivered on behalf of Her Majesty's Government was resumed by Mr. Thomson, as follows:

When I left off last evening, may your excellency and your honors please, I had not the book in which the decision of the *Queen vs. Keyn* is reported. I have that book now, and, as I supposed, I find that my learned friend Mr. Dana was in error in intimating that the common-law lawyers in that case were entirely afloat. I thought, from my recollection of the case, that the judges who decided it were all common-law lawyers, as I said yesterday, except Sir Robert Phillimore, a judge of the high court of admiralty. I hold in my hand a report of the case, and I find that my recollection of it was accurate.

Mr. Dana, also, in his remarks, referred to the decision of the judicial committee of the privy council, given in the case of the *Direct United States Cable Company vs. The Anglo-American Telegraph Company*. It is reported in *Law Reports, Second Appeal Cases*, 394. It was an appeal from the supreme court of Newfoundland to the highest appellate court in the realm on matters either connected with the admiralty jurisdiction of England or with colonial matters. This court is composed of the lord chancellor for the time being, and of all ex-chancellors—and there may be a number of them—and of several paid judges, and quite a number of other eminent men besides, all or nearly all of them great lawyers. The judgment in this case was delivered by one of the ablest men on the English bench; I mean Lord Blackburn, who was transferred from the common-law bench to the House of Lords under a new act which authorized peers to be created for life.

Mr. Dana appeared to think that Lord Blackburn, in delivering this judgment, merely spoke for himself; but this was not simply his own judgment; it was also the judgment of the other judges who were associated with him. He simply pronounced it, that is all; and he undoubtedly wrote it, but all the judges agreed with him.

He said—I cite from page 421:

There was a convention made in 1818 between the United States and Great Britain relating to the fisheries of Labrador, Newfoundland, and His Majesty's possessions in North America, by which it was agreed that the fishermen of the United States should have the right to fish on part of the coasts (not including the part of the island of Newfoundland on which Conception Bay lies)—

I may mention here that the simple question at issue was whether Conception Bay was a British bay, and I think that it is 20 or 30 miles wide at the mouth—

and should not enter any "bays" in any part of the coast except for the purpose of shelter and repairing, and purchasing wood and obtaining water, and no other purposes whatever. It seems impossible to doubt that this convention applied to all bays, whether large or small, on that coast, and consequently to Conception Bay. It is true that the convention would only bind the two nations who were parties to it, and consequently that, though a strong assertion of ownership on the part of Great Britain, acquiesced in by so powerful a state as the United States, the convention, though weighty, is not decisive. But the act already referred to (59 Geo., III, chap. 38), though passed chiefly for the purpose of giving effect to the Convention of 1818, goes further. It enacts not merely that subjects of the United States shall observe the restrictions agreed on by the convention, but that persons not being natural-born subjects of the King of Great Britain shall observe them under penalties.

Now I think, in regard to this case, that if my learned friend had really taken time to read and consider this decision he would have seen that it goes further than he supposes.

Mr. DANA. I did read it.

Mr. THOMSON. Then you are laboring under a misconception in reference to its scope.

Before I pass to Judge Foster's argument—and in point of fact this is part of his argument—I want to call your attention to a complaint that was made—it struck me, very unnecessarily—by the counsel of the United States with reference to a law of 1836, contained in the statute-book of Nova Scotia, which law shifts the burden of proof from the Crown to the claimant of any vessel seized. At first sight it appeared to be unfair, but I believe that the revenue laws of every country—certainly the revenue law of England, from time immemorial—have contained that clause, and I think that the same is true of the revenue laws of the United States, as I will have the honor of pointing out hereafter. These laws in effect enact simply this: that with regard to any seizure made by a public officer in his public capacity, the burden of proof must lie on the claimant, and you must recollect that this provision applies not only to the seizure of a vessel, but also to the seizure of any goods liable to seizure and condemnation. The law enacts that when the claimant comes into court he shall be compelled to prove that all that may have been done has been done legally. Well, that is fair enough, is it not? for within his cognizance lie all the facts of the case. He knows whether everything has been fairly done, and whether he has honestly paid the duties; and he knows—if we take, for instance, the case of a vessel which has entered the limits here—very well for what purpose she entered, and he can prove it. He knows that under this convention fishing-vessels can enter for certain purposes British waters; that is to say, for the purpose of getting wood and water, for the purpose of repairs, for shelter in case of stress of weather, and for no other purpose whatever. He knows that, and he can show, therefore, that although his vessel was seized within the limits, he was really in there for no other purposes than those prescribed by the Convention of 1818. Thus there was no great injustice put upon him. Besides this, all public officers, while acting in the discharge of their duties, are supposed to have no private interest involved, and it would be very hard to subject them to the annoyance of actions if even *prima-facie* grounds are shown for acting as they did; the law, therefore, declares that no action shall lie under such circumstances, and even if it turns out that the seizure was, strictly speaking, illegal, nevertheless if the judge certifies that there was reasonable and probable cause for the seizure being made, the plaintiff shall not recover costs. There is nothing unfair in that is there?

Mr. DANA. It is also prohibited to sue.

Mr. THOMSON. Well, they may be virtually prohibited from suing at all, but I do not think that the act says so. I am, however, quite willing to admit that this clause is just as bad as a clause prohibiting from suing at all, because, as the party cannot recover damages or costs on such certificate being given, it practically prevents him from suing at all. I am quite satisfied, however, that he could not get the question before a court, unless he had the right to sue.

Mr. DANA. I believe that you are right about that. This is decided by the court of first instance. The court tries the question of seizure, and gives the certificate.

Mr. THOMSON. That is it, and it certainly practically prevents suing at all; otherwise a person acting in the discharge of his duty would not be for a moment safe from annoyance. The moment the judge grants a certificate stating that there was reasonable and probable cause for the seizure, no suit can be further maintained.

Mr. FOSTER. Where there is probable cause for seizure, he cannot bring any action to recover any costs, nor any damages. What I would like to call your attention to is this: I think that you will be unable to find any statute of Great Britain or of the United States where this seizure by an executive officer is made *prima-facie* evidence of the liability to forfeiture.

Mr. THOMSON. Well, we will see about that before I get through.

Mr. DANA. The owner is not a party to that suit in which such certificate is given.

Mr. THOMSON. It is a proceeding *in rem*, and the owner is clearly a party to it. I may explain to your excellency and honors who are not lawyers, that the proceeding *in rem* is one directly against the property, and not against the person of the owner. He gets formal notice of the libel filed by the serving-officer, and has the right to appear and defend. If he does not, his property will probably be condemned. I say, therefore, that it is idle to assert that he is no party to the suit. Should he elect to bring a suit against the seizing-officer, he is of course the party plaintiff.

Mr. Dana and Mr. Foster have both pointed to the bond for costs required to be given by a claimant of property seized, and characterize the law requiring it to be given as oppressive and unjust. Let us see why this bond is required.

The proceeding *in rem*, as I have already stated, is not against the owner of the goods *personally*, but against his *property*. If he chooses to contest the legality of the seizure by resisting a condemnation, he ought to be made liable for costs in case of failure. But he cannot be made so liable unless he gives his bond to that effect. Where is the oppression or the injustice of this rule? Without it, the government would be forced to contest at its own expense every seizure made by its officers.

I am surprised at this objection to our law being raised by legal men, and your excellency and your honors will no doubt be surprised when I assure you that the law of the United States on this subject is similar to our own, as I shall proceed to show, to the entire satisfaction, or dissatisfaction, of my learned friends on the other side.

I will now read from the Revised Statutes of the United States, at page 171, section 909:

In suits on information brought where any seizure is made pursuant to any act providing for or regulating the collection of duties on imports or tonnage, if the property is claimed by any person, the burden of proof shall lie upon such claimant.

Here is the United States statute, and I am surprised, I must confess, at United States lawyers making any charge against British legislation when their legislation on the same subject is in nowise different. The clause thus concludes :

Provided that probable cause is shown for such prosecution, to be judged of by the court.

There is no difference whatever between our law and theirs on this subject.

Then again, on page 182 of the same volume, section 970, it says this :

When, in any prosecution commenced on account of the seizure of any vessel, goods, wares, or merchandise, made by any collector or other officer under any act of Congress authorizing such seizure, judgment is rendered for the claimant, but appears to the court that there was reasonable cause of seizure, the court shall cause a proper certificate thereof to be entered, and the claimant shall not in such case be entitled to costs, nor shall the person who made the seizure, nor the prosecutor, be liable to suit or judgment on account of such suit or prosecution ; provided, that the vessel, goods, wares, or merchandise be, after judgment, forthwith returned to such claimant or his agent.

This clearly proves what is done in case the seizing-officer is in the wrong, and when consequently the property seized has to be restored, and if that enactment is not on all fours with ours I do not know what is.

Mr. FOSTER. There is no such provision for the return of the property in your act.

Mr. THOMSON. I am really surprised at Judge Foster saying so. What is the result of a proceeding *in rem* ? Can there be any doubt about it at all ? It must result in a judgment one way or the other. There are only two judgments possible in a proceeding *in rem*—judgment of condemnation or judgment of acquittal, which restores the property at once, while it is transferred to the government in case of condemnation. I have not time to look for the matter in this immense volume, but I have here another book which shows that a bond must be given in these cases in the United States as well as here. I think that the United States look after their interests about as well as any other nation ; and I believe that in the volume which I now hold in my hand it will be found that a bond has to be given. This volume contains the customs regulations of 1874, and epitomes of the different acts, as I presume, for the guidance of the customs officers. In article 842, page 397, it says that “seizures may be made by any private person, but at the peril of responsibility in damages in case the seizure is not adopted by the government.” Well, this is a most extraordinary law, and it altogether eclipses the English or our law on the subject.

In case the act is adopted by the government such person is secure from action, or, in other words, any American citizen who chooses to make a raid against any person who has committed any infraction of the customs, or other laws of the country, can do so, and the latter cannot bring an action against him if the government chooses to adopt his case. It is further stated on page 398 :

From that danger officers of customs are protected by law in all cases where reasonable cause of seizure shall appear.

It is immaterial who makes the seizure, or whether it was irregularly made or not, if the adjudication is for a sufficient cause.

On page 402, article 859, it is stated, and there is cited in the margin an act of July 18, 1866 ; so you see that this “inhospitable legislation” is of very recent date :

Any person claiming the property so seized, or any part thereof, may, within the time specified, file with the collector a claim, stating his or her interest in the articles seized, and deposit with such collector, or other officer, a bond to the United States in the penal sum of

two hundred and fifty (\$250) dollars with two sureties, to be approved by such collector, conditioned that in case of the condemnation of the articles so claimed, the obligors shall pay all the costs and expenses of the proceedings to obtain such condemnation.

And article 800 says :

But if no such claim shall be filed nor bond given within the time specified, such collector shall give not less than fifteen days' notice of sale of the property so seized by publication in the manner before mentioned, and at the time and place specified in such notice he shall sell at public auction the property so seized, but may adjourn such sale from time to time for a period not exceeding thirty days in all.

Now, I think that I have conclusively shown for the benefit of my learned friends opposite that had they looked at the "inhospitable laws" of their own country, they would have hesitated before making the attack which has been directed against ours. I said last night that it would be my duty to point out to you some extraordinary discrepancies which are to be found between the two sets of affidavits which have been filed by the United States; and the pledge which I then gave I shall now proceed to redeem. I shall be glad indeed—I say it in all sincerity—if my learned friends opposite can, as I am pointing out these discrepancies, get up and say that I am mistaken, and show me how they can be reconciled, for I am desirous of not making one single statement which is not borne out by the facts. If, therefore, the learned Agent of the United States, or either of the learned counsel who are associated with him, can say that I am wrong before I get through, I shall be quite willing to permit them to interrupt me and point out my error. I will then at once withdraw my statements, and apologize, if necessary, for having made them; but at present I cannot see how they can be explained at all.

In order that I may be understood on this point, I think that it would be advisable that your excellency and your honors should have before you the two statements, Appendix M and appendix O. Appendix M contains the set of affidavits which was first filed by the United States, and Appendix O contains the later body of affidavits which they filed in this case.

Now, in Appendix O, you will find—toward the middle of the book—a set of statements which purport to have been taken from the books of Gloucester firms; they were produced by Mr. Babson, and filed by Mr. Foster, on October 24, 1877.

Now, I take the finished statement made by David Low and Company, and this David Low is the Major Low who made such a pleasant figure before the Commission.

Mr. FOSTER. He is an entirely different person, Mr. Thomson.

Mr. THOMSON. Are you sure about that? I think not.

Now, if you look at page 110, Appendix M, you will find affidavit, No. 70, made by the firm of David Low & Company. They state that the number of trips made to the Bay of St. Lawrence in 1872 was five, and that the number of barrels of mackerel taken was 1,250. In 1873 they say that there were five trips made, and that the number of barrels of mackerel caught was 750. In 1874 they swear that two trips were made, and that 440 barrels were taken. In 1875 they say only one trip was made, and 200 barrels caught, while in 1876 no trip was made at all.

Now, let me turn your attention to the statements filed concerning the years 1872, 1873, and 1874 for this firm in the second set of affidavits contained in Appendix O. What do they here say for 1872? David Low and Company have been pleased to declare here that in 1872 they had 3 vessels in the bay, and took 460 barrels of mackerel. In 1873 they had 8 vessels, which took 1,944 barrels. In 1874, 4 vessels, which took

1,328 barrels. In 1875, 1 vessel, which took 205 barrels, showing a discrepancy between the two affidavits of 1,297 barrels. I regret to say that this is no solitary instance, as you will see if you will kindly follow me while I state the result of these conflicting depositions.

I objected, as your excellency and your honors recollect, at the very outset, on behalf of Her Majesty's Government, against the system of putting in these affidavits at all. I have no faith in them—no, not the slightest. I wanted the matter to be tried by living witnesses who should go on the stand there, tell their story, and be cross-examined, and then if they came out of the ordeal of cross-examination untouched and unscathed, their evidence would be entitled to weight; but these men can sit down and make up what statements they like; they have not to submit to any cross-examination. No eye can see what they are about except the eye of the Almighty.

Now, I have shown by the figures which appear in the affidavit, No. 70, and the statement in Appendix O, that a discrepancy of 1,297 barrels exists between these statements, the latter of which was filed by Mr. Foster in October last, only last month; and I say that these figures cannot be reconciled in any way—or, at least, if this can be done, I will be very glad to hear it.

MR. FOSTER. You know all that is to be said about that is this, the last statement is more favorable to you than the first one; and it was prepared with great care.

MR. THOMSON. It is an extraordinary fact that both of these statements were produced from the books of David Low & Co., and I can only say that when persons file two statements, one of which is diametrically opposed to the other, that it is very little to the credit of the person who filed them to say that the last statement is more favorable to the persons they were intended to injure than the first.

MR. TRESCOT. There was no intention to injure.

MR. THOMSON. If a statement was put forward with a view of making a correction it would be another matter, but this is not the case, and the next one to which I will call your attention is to be found in letter L, Appendix O, affidavit No. 75, both made by same parties, which says that the number of trips which were made by the vessels of John F. Womson & Co. in the Bay of St. Lawrence, in 1872, was three, in which trips they got 500 barrels, while in this statement in Appendix O they say that in 1872 they took in the Bay of St. Lawrence 475 barrels, showing a discrepancy of 25 barrels. You may say this is a small number, but recollect it is said that these two statements were taken from the books of the firm; and these are the books which we were asked to go to Gloucester and examine, and this matter I beg to call to the attention of your excellency and your honors.

In 1873, they say, in this affidavit, that two trips were made and 450 barrels of mackerel taken, while in this statement, Appendix O, they say that in 1873 four trips were made and 980 barrels taken.

In 1874, according to affidavit No. 73, they say that 510 barrels of mackerel were taken in two trips; and in the statement, Appendix O, they say that three trips were made and 620 barrels taken.

In 1875, they say, in the affidavit No. 75, that one trip was made, and 120 barrels taken; and in 1875, according to the statement contained in Appendix O, two trips were made, with a catch of 203 barrels; or, in other words, there exists a discrepancy of 698 barrels between these two statements. One or the other of them must be untrue.

MR. FOSTER. That gives the same result; the latter statement was more carefully prepared and is more favorable to you than the former.

Mr. THOMSON. You will find that some of these statements are just the other way, so that argument will not help you. My object is not to show which set of affidavits is more adverse or more favorable to the United States, or which is more favorable to Canada or England; but it is to show that these statements cannot be relied upon. They have been put in here for a purpose, but what that purpose is, of course I do not know.

I will now pass on and examine the next statement to which I propose to call your attention. If you look at the statement which appears on the next page of Appendix O, and the corresponding affidavit, which is No. 54, you will see that it is stated in the latter, over the signature of Samuel Haskell, that in 1872 four trips were made into the Bay of St. Lawrence, and 1,100 barrels of mackerel taken; while in the statement contained in Appendix O it is represented that they got none at all in the Bay of St. Lawrence.

This is an instance where the idea which Mr. Foster has mentioned is reversed.

In 1873, it is stated in the affidavit No. 54 that two trips were made and 420 barrels of mackerel taken; and in 1873, they are pleased to say in the statement, Appendix O, that four trips were made in the bay and 672 barrels taken. Here the catch of 672 barrels is admitted, while in the other affidavit that catch is represented as having been 420 barrels.

In 1874, they say in affidavit No. 54 that they took 383 barrels in the Bay of St. Lawrence, while they admit in the last statement, Appendix O, that the catch in the bay that year was 720 barrels, taken in two trips. In 1875, they say, none were taken, and in 1876, also none. Now there is a discrepancy of 911 barrels between these two statements, which are utterly irreconcilable.

If you will now pass over to Appendix O, letter R, to the statement of Dennis and Ayer—the corresponding affidavit is No. 59—you will find that Dennis and Ayer say that “since the Washington Treaty, so called, has been in effect, our vessels have been employed as follows:” Since 1871, they state that they made six trips in the Bay of St. Lawrence and caught 1,800 barrels of mackerel, while in 1871, according to this statement, Appendix O, they took 2,585 barrels of mackerel in the Bay of St. Lawrence. In 1872, they say in this statement, Appendix O, that the catch in the Bay of St. Lawrence was 2,287 barrels; in 1873, 2,504 barrels; in 1874, 2,455 barrels; in 1875, 116 barrels; and in 1876, 136 barrels; contrasted with the catch of 1,800 barrels according to affidavit No. 59. If the figures are rightly given, your honors will see that for that period their catch was 10,083 barrels; that is to say, they caught in the Bay of St. Lawrence 10,083 barrels of mackerel according to this statement which was filed last October, while they swear in their affidavit No. 59 that this catch amounted to 1,800 barrels.

Mr. TRESCOT. This number was put in for six trips.

Mr. THOMSON. O, no. If you look at the head of the affidavit you will observe it is stated that—

Since the Washington Treaty, so called, has been in effect, our vessels have been employed as follows.

And again they swear to having made six trips during that time.

Mr. TRESCOT. During which they got 1,800 barrels.

Mr. THOMSON. But it turns out that they made a great many more trips during this period, and caught 10,083 barrels of mackerel.

Mr. TRESCOT. They are only credited with having made six trips.

Mr. THOMSON. Then Mr. Trescot wishes your excellency and your

honors to understand that although the heading of this affidavit is that it purports to be a statement of all the trips made since the Washington Treaty up to the time when the affidavit was made, it is in fact a *suppressio veri*, and that they only swear to six trips.

Mr. TRESCOT. I do not say anything about it. I have not as yet had a chance to look at it.

Mr. THOMSON. A discrepancy at all events exists between the number 1,800 barrels and the number 10,033 barrels, and a difference of 8,283. That is against us this time; and, moreover, this is a pretty large sum. The first affidavit was entirely against us, as they say in it that their catch in the bay was only 1,800 barrels.

Mr. FOSTER. I have already called your attention to the fact that the last statements are more correct than the earlier ones.

Mr. THOMSON. What must be the character of these books, when this gentleman who sends this last statement swears that it was taken from them? What can be the character of these books, or the character of the men who have made up this statement from the books, and sent in such an affidavit as No. 59, from which I have just read. It is either a gross attempt to deceive the Commission, or else the books are wholly inaccurate and unreliable.

If your excellency and your honors will now look at letter T, to which I call your attention, you will find the statement of James Tarr & Bro.; the corresponding affidavit in Appendix M is No. 72. It is stated in affidavit No. 72 that the number of trips made in the Bay of St. Lawrence in 1871 was four, and the catch 1,287 barrels of mackerel, while, according to this other statement, in 1871 they made three trips, with a catch of 1,054 barrels. In 1872 two trips were made, according to the affidavit No. 72, and 888 barrels were taken, while in 1872 two trips were made, according to this statement, Appendix O, with a catch of 727 barrels only. In 1873, according to the affidavit, four trips were made, and 672 barrels were caught, while in 1873, according to this last statement, the catch of mackerel in the Bay of St. Lawrence was only 660 barrels. In 1874 three trips were made, according to affidavit No. 72, with a catch of 1,124 barrels, while in 1874, according to this last statement, they only caught 774 barrels in the Bay of St. Lawrence, thus cutting down the former statement very materially. In 1875 they say they got nothing in the Bay of St. Lawrence, and in 1876 they say in the affidavit that they caught 190 barrels of mackerel, while in the statement, Appendix O, they state that in 1876 their catch in the bay amounted to 197 barrels. Now these two affidavits cannot be reconciled—the discrepancy is too great.

The next one in the list to which I will direct your attention is letter U, and the corresponding affidavit is No. 74, made by Clark and Somes. They say that "since the Washington Treaty, so called, our vessels have been employed as follows"; and then state that the number of trips which they made in the Bay of St. Lawrence in 1872 was four, with a catch of 812 barrels of mackerel, while in this statement they declare that in 1872 they made nine trips to the bay and got 2,189 barrels—2,189 *against what they are pleased to put down in affidavit No. 74 as 812*. They swear, in fact, in the affidavit—which was sworn to on the 6th of July last—that they only caught 812 barrels of mackerel in the Bay of St. Lawrence in 1872, while in this other affidavit they swear that their catch during that season in the bay amounted to 2,189 barrels. The discrepancy is tremendous.

Then in 1873 they say that they made four trips to the bay and took 680 barrels, while in 1873 they admit in this other statement that they

made seven trips and absolutely got 2,333 barrels. In 1874 they say in affidavit No. 74 they made two trips to the bay and obtained 300 barrels, while in 1874, according to the statement in Appendix O, they made four trips and got 1,407 barrels. In 1875 they say that they got none in the bay, and in 1876 60 barrels, while in this other statement they represent that their catch in the bay in 1876 was 51 barrels. Now, the discrepancy between these two statements amounts to 4,128 barrels; and this is the kind of testimony on which the United States expects to get an award.

Mr. TRESCOT. It is still in your favor.

Mr. THOMSON. We will now turn to the very next page, letter V, appendix O. The corresponding affidavit is No. 55. Joseph Friend here makes the same statement which I have already cited, that "since the Washington Treaty, so called, has been in effect, our vessels have been employed as follows"; and he states that the number of trips made in the Gulf of St. Lawrence in 1872 was four, and the catch 1,500 barrels of mackerel, while in 1872 only one trip was made, and only 163 barrels taken, according to the last statement found in appendix O. Evidently that was not done with the intention of helping the British case much. Then we find it stated that in 1873 three trips were made to the bay, according to affidavit No. 55, and 1,200 barrels taken; while in 1873, according to this last statement, one trip was made, when only 145 barrels of mackerel were taken, cutting down everything. In 1874, they admit by the first affidavit getting 220 barrels in the bay, while here they admit taking that season 201 barrels. There is a discrepancy between these two statements of 2,411 barrels; the number represented in this last statement being so much less than what they admitted in the first affidavit.

While I am upon this subject of these first affidavits, I will call your attention to one feature which runs through the whole of them, and which may possibly account for the very extraordinary testimony which has been given on the part of the American Government by the American witnesses with reference to the value of our inshore fisheries. *They swear that these inshore fisheries are worth nothing.* You may recollect that during my cross-examination of Mr. Pattilo, I asked him the question, "What do you mean by saying that they are worth nothing? I suppose that this is the case because the fish are uncaught?" and he answered, "Yes; that is the reason." In other words, he meant that swimming fish are of no value; and that was put forward, in fact, by some of the opposite counsel, I think, in the course of their argument.

Through all their affidavits this very same doctrine is maintained. I think that there is not one of them which does not contain the same statement. Select any one of them, and you will see it is stated that the actual value of the fish in the water before they are taken is nothing. This is placed near the bottom of the statement; and it is contained in every one of those affidavits. It is declared, "the actual value of the fish in the water before they are taken is nothing," and "the actual value of the mackerel in the water before they are taken is ditto."

We will now look over, if the Commission pleases, to B B, the statement of Leonard Walen; the corresponding affidavit is No. 66. I do not mean to say that I have noticed all the discrepancies which are contained in these affidavits, I do not think that I have done so, as we have not had the time to examine them with sufficient attention. Leonard Walen, in his affidavit, No. 66, states that the number of trips made to the Bay of St. Lawrence in 1872 was two, and in 1873 one; and that on the trips made during these two seasons, 1872 and 1873, he took 900 barrels of

mackerel. Now, on looking at his statement which is filed here in Appendix O, I find that for 1872 and 1873 he absolutely swears that no trips were made to the bay during these two seasons, and that no mackerel were caught there at all by him. How do you think that this gentleman would figure if he was brought up here and put to the test of cross-examination on that stand!

Taking the next statement, O C, the statement of William S. Wons-son; the corresponding affidavit is 64. He states that the firm of Wons-son & Company, "since the Washington Treaty, so called, has been in effect, have employed their vessels as follows."

In 1872, they made two trips to the bay and caught 350 barrels of mackerel, according to affidavit No. 64, while in 1872, according to this last statement, not a single trip was made to the bay by any of their vessels, as you see. In 1873 they say that two trips were made, when they got 400 barrels; while in 1873, according to the last statement, they caught in the Bay of St. Lawrence 923 barrels. In 1874, according to affidavit No. 64, 325 barrels, and according to Appendix O, 885 barrels. In 1875, they swear in their first affidavit, they made two trips to the bay and got 300 barrels; and in 1875, they declare in this last statement that they made but one trip and caught 156 barrels. In 1876 they made one trip to the bay, as they swear in their first affidavit, and caught 150 barrels of mackerel, while in this last statement they say that they got none at all in the bay in 1876.

I think I might go on if I chose, but it seems to be running them almost to the death to follow up this subject. These are affidavits obtained from persons whom they took care not to bring here to be examined.

There is another matter to which I wish to call your attention, in connection with these affidavits, to show how peculiarly they have been prepared. I do not at all seek to quarrel with the decision which was given by this Commission some time in September last, by which you excluded from the consideration of the court the question of the value of the privilege which the Americans enjoyed, of buying bait and ice and of transshipping cargoes. It was contended with great force by my learned friends on the other side that those privileges did not fall within the provisions of this treaty; and I contended, on behalf of Her Majesty's Government, that at all events in the view of that government they did fall within the provisions of this treaty; but of course if the American Government put a different construction upon it, and accepted the exercise of these rights at merely our will and pleasure, I thought that the consequences would be worse to them than to us. Your excellency and your honors adopted the view of the American Government on this point, and ruled that those privileges did not fall within the province of this treaty. As a matter of interest, now, perhaps, only historic, because I do not ask you to reverse your decision on that subject, I wish to call your attention to the fact that the United States at one time held a very different opinion from that which was here put forward by my learned friend, Judge Foster, and his able coadjutors. If you look at question No. 29 in all these affidavits you will observe a peculiar fact—a great number of these affidavits are prepared by question and answer, and they were taken a number of years ago, for some of them are dated as far back as 1873 and 1872, and possibly previously.

Mr. FOSTER. Those were taken in reply to a series of questions propounded by the Treasury Department.

Mr. THOMSON. Now, the Treasury Department is a governmental department of the United States, and this question No. 29 is repeated in each affidavit. Wherever in these affidavits you find that number, you

find the same question, although you will find divers answers given to it. The question is as follows:

Do American fishermen gain, under the Treaty of Washington, any valuable rights of landing to dry nets and cure fish, or to repack them, or to transship cargoes, which were not theirs before? If so, what are those rights, and what do you estimate them to be worth annually in the aggregate?

And the answer of this particular witness in the first affidavit is:

I do not know how valuable the privilege granted by the Treaty of Washington may prove.

That is the question which is put throughout, and I say that this is the best evidence you can have in support of the view that the United States entertained at a time when these questions were framed—a very different opinion from that which they entertain now with reference to the privileges which they obtained under this treaty.

I made, in an earlier portion of my address, some remarks with respect to the little value that is to be attached to affidavits as a rule; and I think that I have exemplified the validity of my contention tolerably well.

Let me now turn your attention to two American affidavits, numbered 18 and 19. (Appendix M.) Look at question 11 in No. 18. It is as follows:

Q. Will the admission of Canadian fishermen to our inshore fisheries cause any detriment or hindrance to the profitable pursuit of these fisheries by our own fishermen; and, if so, in what manner, and to what extent annually?—A. It will probably be a detriment to our markets to the amount of two hundred millions.

On page 45, No. 19, the same question is put, and it, with the answer, is as follows:

Q. Will the admission of Canadian fishermen to our inshore fisheries cause any detriment or hindrance to the profitable pursuit of these fisheries by our own fishermen; and, if so, in what manner, and to what extent annually?—A. It will; probably a detriment to our markets to the amount of two hundred millions.

We assumed at first that this answer was probably a misprint, but on referring to the originals, which I hold in my hand, I find that this estimate, *two hundred millions*, is not only here in black and white, but also that it is not put down in figures; it is set down in plain legible handwriting; that such admission will be “probably a detriment to our markets to the amount of two hundred millions.”

Now, if we only value our fisheries at the same rate, I presume that they must be worth, for the twelve years in question twenty-four hundred millions. So much at present for these affidavits.

I will next turn my attention to Judge Foster's argument. The argument of the counsel opposite upon all the salient points of the case of necessity had to be the same; though they were clothed in different language and viewed from different stand-points, they were substantially the same; and I select Judge Foster's argument, not because these arguments were not put forward with great force by Mr. Dana and Mr. Trescott, but I select Judge Foster simply because he is the accredited Agent of the United States; and therefore, in that respect, and in that sense, his arguments are entitled, I suppose, to greater weight.

I think the first point I will have to call attention to is on page 37 of Mr. Foster's affidavit, in which he says:

Mr. FOSTER. You speak of my affidavit; I did not make any affidavit.

Mr. THOMSON. I intended to say Mr. Foster's speech. I should be very sorry to suppose Mr. Foster would make an affidavit such as this. It is an admirable argument on behalf of a very bad cause, but I don't think he would like to swear to it. Mr. Foster stated, in speaking of

the affidavit of the British witnesses from Prince Edward Island, that they had been made on the assumption that the three-mile line was a line outside a line drawn from East Point to North Cape. Now, there is no evidence of that. There is no evidence that the Bend of Prince Edward Island was ever claimed to be a bay from East Point to North Cape.

Mr. FOSTER. Yes, there was.

Mr. THOMSON. At all events you can find in no official correspondence any such view, and I do not, as counsel for Her Majesty's Government, present any such view now. I refer to this matter because, based on that theory, Mr. Foster made what I think was an unfair charge against the Prince Edward Island affidavits. He says in his speech, page 37: "The affidavits from Prince Edward Island were drawn upon the theory that that is the rule, and in two or three of these I found it expressly stated, 'that all the mackerel were caught within the three-mile line, that is to say, within a line 3 miles from a straight line drawn from East Point to North Cape.'"

But there were only two affidavits that could by any possible construction be made to bear such a meaning.

Mr. FOSTER. Look at McLean's affidavit, page 42.

Mr. THOMSON. Yes, you referred to him by name. Now let me see what he says, although even if one of them did make his affidavit upon that assumption it would not be a very important matter.

Mr. FOSTER. My argument was that they were all made in answer to the same series of questions, and the only possible interpretation of those questions is that such was the view entertained.

Mr. THOMSON. These affidavits were drawn up in answer to no questions whatever. There were no questions put to these people. They were substantive affidavits, drawn up, not by one man or by one hand.

Mr. FOSTER. Compare them, and you will see that every man answers in the same paragraph of the affidavit to the same question.

Mr. DAVIES. No, that is not the case.

Mr. FOSTER. Try them.

Mr. THOMSON. I will try McNeil. He says, in section four of his affidavit:

That the fish are nearly all caught close to the shore, the best fishing-ground being about one and one-half miles from the shore. In October the boats sometimes go off more than three miles from land. Fully two-thirds of the mackerel are caught within three miles from the shore, and all are caught within what is known as the three-mile limit: that is, within a line drawn between two points taken three miles off the North Cape and East Point of this island.

He draws the distinction at once. He says two-thirds were caught within three miles of the coast, that is, following the contour of the shore; but if you are going to draw a line from point to point, and take the three-mile line as a line outside of that, then they were all caught within that line. But you see that, for the purpose of our case, the fact that two-thirds were caught within three miles of the contour of the coast, is all that is necessary. There were only two affidavits, I think, that had any allusion of this kind.

Mr. FOSTER. See McLeod's affidavits, page 218.

Mr. THOMSON. In the sixth section of McLeod's affidavit he says:

6. That nine-tenths of our mackerel are caught within one and one-half miles from the shore, and I may say the whole of them are caught within three miles of the shore. There may be an odd catch of mackerel got more than three miles from shore, but that does not often happen. The greater part of the codfish caught by hand-line are caught at from two to five miles from the shore, and all the codfish caught by the trawl or set-lines are caught within three miles from the shore. There are no mackerel or codfish at all caught by the boats outside of the three-mile limit—that is, outside of a line drawn from points three miles

off the headlands : while the herring are all caught close inshore, within two miles of the shore.

There is nothing in that. It has been very honestly put by the witness. He says nine-tenths of the fish were caught within three miles of the shore.

It is a pure assumption on the part of Judge Foster that this line he refers to is a line drawn from the headland formed by East Point to the headland formed by North Cape.

Mr. FOSTER. What other headlands are there ?

Mr. THOMSON. There are headlands formed by the indentations along the coast ; and he refers to them. It will be found, as I have stated, that the witnesses referred to draw a clear distinction. They say that two-thirds or nine-tenths of the fish, as the case may be, are caught within three miles of the shore, but that if you draw a line three miles outside of the line from North Cape to East Point, they are all caught within such a line.

At page 39 Judge Foster introduces the inshore fishery question in this way :

We come then to the inshore fishing. What is that ? In the first place there has been some attempt to show inshore halibut-fishing in the neighborhood of Cape Sable. It is very slight. It is contradicted by all our witnesses.

I take leave to join issue with him on that statement, and I call attention to page 429 of the British testimony, where he will see what the evidence is. I am obliged to call the attention of the Commission to this, because Mr. Foster treated it as a matter of course, as he did the case of Newfoundland. On page 439 William B. Smith, of Cape Sable Island, is asked, and answers as follows :

Q. With regard to halibut-fishing, is there any halibut-fishing carried on near Cape Sable Island ?—A. Not by British people. The Americans fish there.

Q. Every year ?—A. Every year regularly.

Q. What is the number of the fleet which come there to fish for halibut ?—A. I have seen as high as nine sail at one time. I should suppose there was from 40 to 60 sail.

Q. Are the vessels cod-fishers at other times of the year ?—A. I think they are. During the latter part of May and June they fish for halibut ; then they fish for cod until October, and then for halibut.

Q. In the spring and fall they fish for halibut, and in the summer for cod ?—A. Yes.

Q. Where do you live ?—A. On Cape Sable Island.

Q. Can you see the fleet fishing for halibut ?—A. Yes.

Q. Are they right within sight from your door ?—A. Yes ; I can count the men on deck with an ordinary glass. I counted at one time nine sail at anchor fishing there.

At page 440 he is asked, just at the top of the page :

Q. How far from the shore are those halibut caught ?—A. From one mile to two and a half or three miles perhaps off.

Q. They are caught inshore ?—A. Near my place they fish within one mile and a half of the shore in 18 fathoms water.

Now here is the evidence of a credible witness, a very respectable man, whose testimony was not shaken in the least by cross-examination.

Cunningham gave evidence, which will be found on page 407, to the same effect.

Mr. FOSTER. Have you got through with these gentlemen ?

Mr. THOMSON. Yes, because I am going to show how you attempted to answer the whole of that testimony.

Mr. FOSTER. Shall you not want an observation upon the one you have referred to ? It is this : If you follow the testimony through you will see that this witness, William B. Smith, testified that there was one spot where there was eighteen fathoms of water, and that was the spot where they caught the halibut. It turned out that upon the chart that

depth could not be found. In reply to the question whether he could name any person who had caught halibut there within the distance he had named in eighteen fathoms of water, he gave us the name of one vessel, the Sarah C. Pyle, Captain Swett (as it is in the report) of Gloucester; and being asked if he is a halibut-fisher, he says he thinks he is.

Mr. THOMSON. When Smith was under cross-examination the question was put to him whether there was eighteen fathoms of water in the place where the halibut was caught, and he said there was. A chart was placed in his hand, and whether he looked at it or not I do not know and I do not care. It was said to him by the counsel for the United States, "Look at that chart and you will find no such depth as eighteen fathoms." He said, "I have known it all my life-time; I know there are eighteen fathoms there." And while the American case was going on, and while one of the witnesses, who had been brought for the purpose of contradicting Smith, was on the stand, I myself took the British Admiralty chart, and on the identical spot which Mr. Smith had referred to I found eighteen or twenty fathoms of water. I think Mr. Foster must have forgotten this incident when he interrupted me.

I now turn to the evidence of Cunningham, page 407. The following passage occurs in his evidence:

Q. How much within three miles do these vessels which fish for halibut within that distance from the shore come?—A. I could not say; some, perhaps, fish within $1\frac{1}{2}$ miles of the shore. Where I am engaged in prosecuting the fisheries some of the American vessels fish within $1\frac{1}{2}$ miles, and others within 2 miles of the shore, and so on.

Q. Are any cod and halibut taken outside of the three-mile limit?—A. O, yes; but this is not so much the case with halibut as with cod.

Q. Do many American fishermen fish there outside of three miles from shore?—A. Undoubtedly; some 75 American sail do so around the shores of the county of Shelburne.

The word "outside" in the last question but one must be a misprint for inside. My question was, "Do many American fishermen fish there inside of three miles from the shore? And the answer was, undoubtedly; "some 75 American sail do so around the shores of the county of Shelburne."

Now I will turn the attention of the Commission to the evidence of Patillo.

Mr. FOSTER. Do you understand Cunningham as having left his testimony that 75 sail of halibut-fishermen frequented the shores of the county of Shelburne?

Mr. THOMSON. No; American fishermen.

Mr. FOSTER. He said he could not tell how many fished for halibut.

Mr. THOMSON. I dare say so; if he had been an untruthful witness he would have fixed the number at once.

I now turn to the evidence of Thomas R. Patillo—not the Patillo of pugnacious reputation—and I want to refer specially to the remarks of my learned friend in reference to the evidence of Mr. Patillo, because it is a warning to the Commissioners to scrutinize the argument of my learned friend very closely. It is wonderfully ingenious, and unless you watch it very closely it will possibly mislead you. This is what Mr. Foster said, page 39 of his argument:

So much for the inshore halibut fishery. I will, however, before leaving it, refer to the statement of one British witness, Thomas R. Patillo, who testified that occasionally halibut may be caught inshore, as a boy may catch a codfish off the rocks.

Now he puts it as if Mr. Patillo had said that occasionally a halibut might be caught, as a boy might catch a codfish off the rocks, but that it was not pursued as a business. There is just enough truth in his

statement to make it a little dangerous. This is the way the question is put:

Q. Occasionally a halibut might be caught inshore, as a boy might catch a codfish off the rocks, but, pursued as a business, halibut are caught in the sea?—A. Yes, in deep water.

Now, surely this answer is not an assent to the proposition that halibut are merely caught occasionally, as *"a boy would catch a cod off the rocks."* It is an answer to the last branch of the question, namely, that the halibut are caught in the sea. The witness says: "Yes; they are caught in deep water." Now, surely it was not fair, on the strength of this answer, to quote Patillo as saying that occasionally halibut might be caught *"as a boy would catch a cod off the rocks."*

Mr. FOSTER. Now, wait a moment. I had previously asked, "To what banks do the fishermen whom you supply with bait resort?" and the witness had answered: "They chiefly go to the Western Banks and to Banquereau, and to our own offshore banks; the halibut is a deep-water fish, and it is taken in 90 fathoms of water and upwards." Then I said: "You don't know of any inshore halibut-fishing done by the Americans which amounts to anything?" In answer to which the witness said: "Not inside of 90 fathoms of water." Then I asked: "Do you understand that the halibut-fishing is substantially everywhere a deep-sea fishery?" to which he answered, "Yes." Then put this other question: "Occasionally a halibut may be caught inshore, as a boy may catch a codfish off the rocks; but pursued as a business, halibut are caught in the sea?" And the witness answered, "Yes."

Mr. THOMSON. No; the witness honestly enough says that the halibut fishery is usually a deep-sea fishery, but the words describing it as merely an occasional thing to catch one inshore are Mr. Foster's, and the witness does not assent to those words, but to the statement that halibut are caught in the sea, to which he replies: "Yes, they are caught in deep water."

I only refer to this as an illustration of the dangerous power possessed by my learned friend in the twisting of evidence. "So much," he says in his speech, "for the inshore halibut fishery, and that brings me to the inshore cod fishery, as to which I am reminded of a chapter in an old history of Ireland that was entitled '*On Snakes in Ireland*,' and the whole chapter was, '*There are no snakes in Ireland.*'"

Now, that is a very amusing way of treating the cod fishery, but unfortunately it is not justified by the facts. If there is no more truth in the statement that there are no snakes in Ireland than there is in the statement that there is no inshore cod fishery, I am very much afraid that island is overrun with vipers. Now, I will show you distinctly that we have the most conclusive testimony on the subject of the inshore cod fisheries, and it is a very singular thing that my learned friend should have dismissed the subject so summarily as he did. I refer to the evidence of the British witness named Nicholson, page 207. Let us see what he says. By the same token, this is the very man that speaks of the halibut also. In the cross examination by Mr. Dana, on page 207, the following passage occurs:

Q. Well, cod are often caught inshore, but would not you say cod was a deep-sea fishery?—A. Yes.

Q. And halibut is the same?—A. Yes.

Q. I believe one witness, a Mr. Vibert, of Perce, in the county of Gaspé, said that the halibut were altogether caught within the three-mile limit, without any exception. He says, "that is I believe what I have understood from our fishermen; they have told me that halibut could not be caught in deep water." (Reads from page 110 of the evidence.) Should not you say that was a mistaken statement?—A. Yes. The Gloucester folks go every winter.

In fact, they go the whole year round to catch them. In the summer they get halibut in shallow water, but in the winter they have to fish in 100 fathoms of water.

Q. So they are a deep-water fish as a fish, but you can catch them inshore?—A. They may be caught inshore.

Q. Do the Americans themselves pursue the halibut-fishing except as a deep-sea fishery?—A. O, yes. They take them anywhere where they can get them.

Q. Do you think that on this coast the Americans fish for halibut?—A. Yes.

Q. They take them as they find them, but do they undertake as a business the fishing for halibut inshore?—A. Certainly, the treaty allows it. They will take them in our harbours if they can.

Now, if you look at page 413, the evidence of Mr. Ruggles, you will find some evidence upon this point:

Q. What kind of fish are caught here?—A. Codfish, haddock, hake, pollock, halibut, herring, and some mackerel when they strike our shores.

Q. Is it an inshore fishery?—A. With the large proportion of the inhabitants it is an inshore fishery in small boats.

Q. Do you know where Cape Split is?—A. Yes.

Q. Now does this fishery extend up the north coast of the island and off Digby Neck as far as Cape Split?—A. Yes. It is quite an extensive fishery up to the Isle of Haute, and that is well up to Cape Split.

Q. From Cape Split it extends all the way to your island. Around the shores of the bay, are there fisheries there?—A. Yes.

Q. Around both sides of the bay?—A. That is Digby Neck side and Clare.

Q. And down the coast as far as Yarmouth?—A. Perhaps on the south side of St. Mary's Bay on the French Shore or the Township of Clare it is not so extensive.

Q. It is not so extensively carried on, but is the fish as good?—A. I could hardly say it was as good on the south side, but still there are a number that prosecute the fisheries there. It is increasing annually. The inhabitants are turning their attention more to the fishery business.

Now you will recollect that this evidence is wholly uncontradicted, and the same is true of the testimony of Mr. Payson, on page 399. He is fishery overseer for Long Island and Brier Island, residing at Westport, Digby County, Nova Scotia. His evidence is as follows:

Q. You are inspector of fisheries there?—A. Yes, up to Tiverton and Petit Passage.

Q. What do you consider to be the value of the fisheries there?—A. Last year the fishermen exported about \$200,000 worth of fish.

Q. What parts of the coast does that include?—A. The two islands.

Q. From the two islands, which constitute about 7 miles of the 30 miles of the Neck on one side of the bay, the fish exported amounted to \$200,000?—A. Yes.

Q. The other portion of the fishery is as good as yours?—A. Well, perhaps not quite. They are not as fully carried out.

Q. Fish are plentiful?—A. There is fishing all along the coast.

Q. The people on those islands live almost exclusively by fishing?—A. Pretty much altogether.

Q. For a number of years your district has been frequented by small American schooners?—A. Yes.

Q. What kinds of fish do they catch?—A. They catch the same kinds as we do—cod, halibut, pollock, and herring.

Q. They catch their own bait?—A. The small vessels catch their own bait.

Q. Besides these small schooners, your district is frequented by other American fishing-vessels?—A. A great many other vessels come in mainly for bait, sometimes for ice, and go out again.

Q. How often do they come in for bait?—A. I have known some vessels to come three times in a season.

Q. Where do the small American vessels take their fish?—A. To where they belong. I suppose. They come from along the coast down to Mount Desert.

Q. It is a business that is increasing?—A. Yes.

Q. Do the American vessels fish there during the season?—A. The small fishing-vessels fish there during the season, and the other vessels come in for bait. There are fishermen at Whale Cove, and White Cove from one to three miles above Petit Passage, and quite an extensive fishery about five miles above. The people there complained of the small American vessels coming there and interfering with the fishery. I told them I could not do anything, because the Americans are allowed the same privileges as we are. I also heard complaints of the Americans transgressing the law by Sabbath fishing and throwing gurry overboard. In two cases I issued a warrant, but they got out of the way and it was not served upon them.

Q. Why do the American schooners come over to your district, and not fish on their own coast?—A. They said the fishery on their own coast has failed, and they gave me as a reason that they thought it was a good deal due to the trawling practices.

Q. During how many years have they been coming there?—A. Three or four years.

Q. They gave you that as the reason why they come to your coast?—A. I talk to a great many masters of American vessels. My son keeps an ice-house, and they come there for ice, and I have talked with them about the fisheries, and they told me the trawling had, in a measure, broken up their fishing.

Q. How far from the shore do they catch cod, pollock, and haddock?—A. From half a mile to a mile. The large vessels fish mostly outside the three miles, but the small vessels fish on the same ground as our own fishermen. The small vessels fish within half a mile or a mile of the shore. They anchor the vessels in the harbor, and go out in boats to fish; they fish close inshore.

Now, they did not contradict that evidence at all. I do not know what the extent of coast is from Cape Split to Digby Neck.

Mr. FOSTER. What counties does it include?

Mr. THOMSON. Kings, Annapolis, and Digby.

There was an attempt to contradict this evidence by the evidence of Sylvanus Smith, page 338 of the American testimony. As the counsel for the United States have not the privilege of replying, it is only fair that I should cite the pages of the American testimony that were presented in attempted contradiction of the evidence of our witness.

The evidence of Sylvanus Smith is as follows:

Q. How near shore to any place have you known of the halibut being fished?—A. One hundred and fifty miles may be the nearest point.

Q. These are Banks; but haven't you known it to be done, or attempted, near shore?—A. I have.

Q. Where have you known them?—A. On the Labrador coast they have caught them large near the shore. I have known them catch them in 30 miles or 25 miles around Cape Sable. I fished there quite a number of years, around Seal Island and Brown's Bank.

Q. How near land there did you ever fish?—A. I have fished in sight of land. I could see it.

Q. Did you ever fish within three miles?—A. No; I don't think any one could fish in there, because it is not a fishing ground.

Q. You don't know of any one?—A. No.

That is all he could give in the way of contradictions, if I recollect right. On page 340 this question is put to him:

Q. You cannot speak of the places where halibut have been caught since that time from practical knowledge?—A. No.

Q. Previous to 1864 you were engaged. How many seasons were you engaged catching halibut?—A. I think some six or eight.

Q. When you were then engaged did you go into the Gulf of St. Lawrence at all for halibut?—A. Never.

Q. Are you aware that there is a halibut fishery around Anticosti?—A. I never was aware of any.

Q. Well, the fact that two vessels were seized there while inside trying to catch, would be some evidence that they believed the halibut were there?—A. Well, they look for them everywhere.

Q. Don't you think they must have had reasonable grounds?—A. I don't think it. They are in the habit of looking everywhere where they may be.

Q. Do you stand by the full meaning of your answer that you don't think they had reasonable grounds for believing the fish to be there?—A. Well, a man might have reasonable grounds for believing they were in the water anywhere.

Mr. FOSTER. Have you the evidence where he says that one of his vessels strayed into the Gulf of St. Lawrence after halibut? Look also at Swin's affidavit, page 238.

GLOUCESTER, October 10, 1877.

I, Benjamin Swin, of Gloucester, Mass., on oath depose and say, that I was born at Barrington, Nova Scotia; am 27 years of age, and am now master of schooner Sarah C. Pyle, of Gloucester, and have been since April of this year; have been engaged in codfishing during that time; have landed 150,000 pounds of codfish and about 3,000 pounds of halibut; and caught them all, both codfish and halibut, on Western Banks. The nearest to the shore that I have caught fish of any kind this year is at least forty miles.

BENJAMIN SWIN,
Master of Schooner Sarah C. Pyle.

Mr. THOMSON. This is what Swim says. Mr. Smith gave the name of the Sarah C. Pyle, of Gloucester, Captain Swett, as one vessel that had fished near shore in eighteen fathoms of water.

Mr. FOSTER. It is not Sylvanus Smith who speaks of that.

Mr. THOMSON. No; it is William B. Smith. The question is as follows:

Can you give us the name of any of these vessels that you say have been fishing within that distance of the shore in 18 fathoms of water?—Answer. I can give the name of one, the Sarah C. Pyle, Captain Swett, of Gloucester. I supplied him in the summer with 2,500 mackerel.

But whose affidavit have we? Not the affidavit of Captain Swett, but of Benjamin Swim, of Gloucester.

Now, there is no word that during the whole of this season he commanded the Sarah C. Pyle. This evidence was given a long time ago, while the affidavit, which purports to be a contradiction, is sworn on the 10th of October, months after he had given the evidence. Captain Swim had the printed evidence, I presume; at all events, some person must have had the printed evidence and communicated to him its purport. He must have read the statement that it was Captain Swett who commanded her, and that the witness, William B. Smith, sold her 2,500 mackerel. Now, this affidavit is altogether silent as to Captain Swett. If it was intended to be a contradiction of the witness's statement, there should have been a statement that there was no such person as Captain Swett in command of that vessel. Captain Swim does not undertake to say that he commanded the vessel during the whole time since April last. He says: "I am now master," &c.; "have been since April." He may have sent another man out as captain and himself remained master upon the register. It would be quite consistent with anything that he has stated in his affidavit.

Mr. FOSTER. The affidavit is dated the 10th of October, while the evidence was given on the 28th of September. So there is not such a great while between.

Mr. THOMSON. But it is undoubtedly made for the purpose of contradicting William B. Smith, and I say that it is a most singular circumstance that they produced no affidavit from Captain Swett.

Mr. FOSTER. There is no Captain Swett. Probably the short-hand reporter got the name wrong.

Mr. THOMSON. If this affidavit was intended as a contradiction, it should have contained an allegation that there was no Captain Swett; that there was no other Sarah C. Pyle, and that this deponent had been in command of her during the whole time. Even had all that been done, there would have been this important question, whether a man who comes here and subjects himself to cross-examination, and whose evidence is substantially unshaken, can be, or ought to be, contradicted by an affidavit made in a chamber by some interested person, behind the back of the person to be affected by it, and absolutely protected against any hostile cross-examination. I say, that any writing, produced under such circumstances, to contradict such a witness, is not worth the paper it is written on, and ought not to be. What is the reason he did not come here? If he was intended to contradict our witness, why, in common fairness, didn't he either come here, or show some reason that prevented him from attending as a witness in person? Should upon shoals of witnesses have come here from Gloucester and been examined. What is the reason that Swim did not come, as Smith did, and subject himself to cross-examination? Smith was not afraid of cross-examina-

tion. Why was Swim? I dismiss his affidavit as no contradiction whatever.

Mr. FOSTER. Don't dismiss it until I call attention to the fact that further on in the cross-examination of Smith, he says he does not know where the Sarah C. Pyle caught her halibut at all, and that all he knows is that he supplied the bait.

Mr. THOMSON. Where is that?

Mr. FOSTER. Read right along in Mr. Dana's cross-examination. His statement on cross-examination is as follows:

Q. You have with you a memorandum concerning this vessel to which you sold these mackerel?—A. Yes.

Q. What did they do with mackerel?—A. They put the fish in ice on board. I do not know what became of the latter afterward.

Q. What did the vessel do then?—A. She went out to fish.

Q. Did you see her do so?—A. Yes.

Q. Did she continue fishing with 2,800 fresh mackerel on board?—A. The captain took them for part of his bait. We did not supply him altogether with bait.

Q. Did you go on board of her after she left the harbor?—A. No.

Q. Do you know what she caught?—A. No.

Q. Whether cod or mackerel?—A. No.

Q. It might have been cod?—A. Yes.

Q. Why did you say it was halibut?—A. I said that we supplied him with bait, but I do not know that she caught halibut.

Q. As to those vessels, can you tell with your glass at that distance whether what they haul on board is halibut or cod?—A. I do not know what they catch, but they say that they come there to fish for halibut. I frequently converse with them.

Mr. THOMSON. He says this Captain Swett is a neighbor of his; that the Sarah C. Pyle, of which Captain Swett was master, fished for halibut; that he supplied him with 2,800 mackerel; that she went out to fish, and in answer to the question why he said it was halibut she caught, he says, we supplied her with bait; and in answer to the next question he says, he does not know what they catch, but that they say they come there to fish for halibut. Captain Swett told Mr. Smith that he came there to fish for halibut, and Smith believed his word; and I say that his evidence stands entirely uncontradicted; and, in view of what I have seen of this evidence, I shall dismiss the affidavit of Swim as being entirely irrelevant, and having no bearing whatever upon the matter.

But there is another man that was brought forward to contradict Mr. Smith. Confronted with the maps, and shown that the soundings were there that he had undertaken to say were not there, he was obliged to admit that he had not been there for eleven years, while Mr. Smith had given evidence referring to a period within a couple of years.

There is another witness that they put forward to contradict Hopkins' testimony. On page 417 of the British evidence, Hopkins testifies as follows:

Q. Are you aware that halibut is taken inshore by boats as well as cod and pollock?—A. By our boats? Yes; it is taken inshore.

Q. I think you said you had heard of Americans coming in within three miles, but you did not know?—A. I do not know. Mr. Cunningham will know more than I do. It is a little aside from where my business takes me. I have understood they have been in a good deal around St. John Island, just west of where I am.

Q. That is within 3 miles?—A. Close in.

In this connection I will turn your attention to the evidence of Joseph Coutoure, page 280. He says:

I am 42 years of age. I live at Cape Despair, in the county of Gaspé. I am a fisherman, and at present employ men in the fishing business. This fishery is carried on along the coast from one to three miles from shore, and also on Miscou Bank. The Americans fish there. I have seen as many as 40 sail fishing there at the same time.

Mr. FOSTER. That was in 1857?

Mr. THOMSON. Yes; I want to show that the fish were there. The whole evidence shows that the codfish do not fall off.

Now on page 293 we have the evidence of Louis Roy, of Cape Chatte, Gaspé, fish merchant, formerly fisherman. His evidence is this:

Q. Is the cod as abundant now as it was 30 or 40 years ago? Do you get as much?—A. O, yes; as much as 30 or 40 years ago. I am sure of it.

I will not read but simply refer to the evidence of James Horton, James Jessop, and the Hon. Thomas Savage, which is all to the same effect as to this question of the cod fishery, and therefore I submit that this was not a part of our Case to be summarily dismissed upon the principle that there are no snakes in Ireland.

Now I pass from the cod fishery to the question of bait.

Upon that subject I want to be distinctly understood. I will just refer you in general terms to the question. Under the decision of this Commission the bait which the Americans who come into our harbors purchase cannot be taken into consideration. The point, therefore, that I have to make in view of that decision is this, that so far as the evidence shows that the Americans have gone in for the years that are passed, and have themselves fished for bait or employed others to fish for it, that must be taken into consideration, upon the principle that the man who employs another to fish for him in point of law fishes himself. I presume that will not be disputed. In reference to the years that are to come, the proposition that I submit is this: That this Commission having decided that under the Treaty of Washington the privileges of buying bait and ice, and of transshipping cargoes, are not given by that treaty, American vessels have no right to exercise them, and if they do so, they are liable to forfeiture under the Convention of 1818. Therefore, as regards these rights, we go back to that convention, and American vessels exercise them at their peril. In reference, therefore, to the future of this treaty, American fishermen must be presumed to bow to your decision and obey the law. That being so, what will they do? They must get bait. They cannot do without it. And they will, therefore, have to fish for it themselves. In any case you must assume that they will get whatever bait they require from our shores during the next eight years, according to law, either by fishing themselves or going and hiring persons to fish for them, which, under the treaty, they undoubtedly have a right to do.

Therefore, the only remaining question is whether this bait is absolutely necessary for them or not. Now the whole evidence shows that without the bait they cannot prosecute the fisheries at all. Even their own codfisheries it is really impossible for them to carry on, unless they get our bait. That must be thoroughly understood by American fishermen, as indicated by the extraordinary efforts made to get rid of the difficulty. That is clear, because Professor Baird was put upon the stand to give evidence that a new process had been discovered by which clams could be kept fresh for an indefinite length of time, and that these could be used for bait. They were so fresh when so preserved, I don't know for how many weeks, by this process, that the Centennial Commissioners made up their minds, and bold men indeed they must have been, to eat these clams that had been preserved for six weeks.

But Professor Baird omitted to tell this Commission a matter which was very essential to the inquiry, and that was what was the chemical process and what was the cost of that process by which bait which would become putrid and useless under ordinary circumstances within

the usual time, was prevented from becoming in that condition; and I think until that fact is made clear your honors must dismiss it from your minds. I only refer to it to show that the American Government felt that upon that subject it was in a very difficult position. It is clear, therefore, to my mind, and I think it must be assumed by this Commission, that without fresh bait American fishermen cannot get on.

The next question is, can they get a supply of fresh bait on their own shore? There is a consensus of evidence given by witness after witness, who went on the stand and stated that he came in once, twice, three times or four times during one season for fresh bait into ports of Nova Scotia, along the Cape Breton shore. I did not examine as to the Grand Bank fishing vessels, for that part of the case I left to my learned colleague, Mr. Whiteway; but as to the George's Banks fishery the supply of bait is obtained from our own shores. It is one of the matters your honors must take into consideration, that if American fishermen were kept out of our shores so that they could not get bait, not only their mackerel-fishing in the bay, which was a subject of very considerable contest, would go down, but their codfishery would go down also. According to the evidence, if your honors will examine it, we hold the keys in our hands which lock and unlock the whole North American fisheries; I mean the North American fisheries for cod, halibut, mackerel, and herring; in fact for all those fish which are ordinarily used for food.

Mr. FOSTER. Do you say mackerel?

Mr. THOMSON. Yes; in regard to mackerel I will show that we hold the keys. It is probably forestalling my argument a little; but Mr. Foster, in the course of his speech, asserts that because the larger proportion of mackerel, as he says, comes from the American coast, our mackerel do not have any effect on the market.

Mr. FOSTER. I thought you were speaking about bait and the bait question.

Mr. THOMSON. So I was. Even for mackerel it is not much of pogie bait they use, and at all events they use other bait as well; but pogie is not necessarily an American bait; it is a deep-sea fish, as has been shown by different witnesses.

Now, in regard to the quantity of bait, I refer you to the evidence.

John F. Campion, of Souris, Prince Edward Island, pp. 36, 37, and 45, says:

There are large numbers of American trawlers off Cape North. They catch their bait around the coasts of Newfoundland, sometimes at St. Peter's Island, and at Tignish Bay. I have seen them catch herring for bait this spring. *Three or four were setting nets right in our harbor.*

John James Fox, Magdalen Islands, at p. 114, says:

Americans catch bait largely in our neighborhood; the chief place for catching it is at Grand Entry Harbor. They set their nets on shore; they want this bait for cod-fishing.

Angus Grant, Port Hawkesbury, Cape Breton, at pp. 184, 185, says:

Americans both purchase and fish for squid; they catch squid by jigging. Large quantities are taken at Hawkesbury. They buy and catch bait at Crow Harbor and those places.

James Purcell, Port Mulgrave, at p. 197, says:

United States vessels get their bait in our harbor. They sometimes buy it, and sometimes catch it. I have seen them catching it. I have seen 18 vessels taking squid as fast as they could haul them in, at Hawkesbury.

John Nicholson, Louisburg, Cape Breton, at p. 205, says:

Americans both fish for their bait and buy it. I have seen them fishing for squid close to the shore.

John Maguire, Steep Creek, Nova Scotia, at p. 213, says :

American cod-fishing vessels sometimes catch squid for bait.

James Bigelow, Wolfville, Nova Scotia, at p. 222, says :

Americans frequently catch bait on our shores.

John Stapleton, Port Hawkesbury, Cape Breton, at pp. 228, 229, says :

I have seen numbers of Americans catching squid in Port Hawkesbury : this year I suppose 15 or 20 sail ; last year about 25 or 30. They cannot carry on the Bank fishery without procuring fresh bait.

Hon. Thomas Savage, Cape Cove, Gaspé, at p. 264, says :

I have seen Americans come in and catch bait themselves, or rather set their nets to do so ; among our fishermen they seine for it ; they would do very little at codfishing without the privilege of getting fresh bait.

James Baker, Cape Cove, Gaspé, at p. 270, says :

Americans fishing at Miscou Bank came in to different places along our coast for fresh bait ; they principally catch it themselves, taking squid, mackerel, and caplin. They took it close inshore.

James Jessop, Newport, Gaspé, at p. 277, says :

American codfishers run up to Shippegan and Caraquette and fish for herring, for bait, with nets ; they also take mackerel and squid ; they could not carry on the fishery profitably without coming in to get fresh bait.

William Flynn, Percé, Gaspé, at p. 278, says :

There are annually about 400 codfishers in the bay ; they get a great deal of their bait inshore along our coast by setting nets for it, and sometimes by buying it. I have seen them seining herring and caplin, and have heard that they jig squid and bob mackerel. I don't believe they could carry on the codfishery profitably without coming inshore for fresh bait.

John Short, Gaspé, at p. 284, says :

American codfishers get a great quantity of their bait from the inshore fishery. I have seen them set nets and have no doubt of their catching their bait inshore. They often draw seines to shore for caplin and small fish. Without the right of coming inshore they could not successfully carry on the deep-sea codfishery.

Abraham Lebrun, Percé, Gaspé, at p. 288, says :

I have heard from United States captains that there are 500 codfishers in the bay. They get their bait on the coast. They take herring in nets. They also catch squid, and seine caplin. They take mackerel as well. They bring their nets with them. They had either to procure fresh bait or go without fish.

John F. Taylor, Isaacs Harbor, Nova Scotia, at p. 296, says :

United States codfishers in the Gulf run inshore for bait—they go in boats to get them. Without the right of getting fresh fish inshore, they could not carry on the fishery with success.

George Romeril, Percé, Gaspé, at p. 309, says :

Most of the United States codfishers come inshore for bait. They get it with nets and by purchase. They take chiefly herring. They bring their nets with them, and catch the bait themselves close inshore. The codfishery could not be carried on successfully without access to the shores for bait.

James Hickson, Bathurst, New Brunswick, at p. 341, says :

United States vessels come inshore and fish for bait when they can, and buy it when they can. They take squid inshore. They couldn't carry on the fishery without coming in for bait.

John Dillon, Steep Creek, Nova Scotia, at p. 360, says :

Some United States vessels come inshore and set their nets for bait.

Thomas R. Pattillo, Liverpool, Nova Scotia, at p. 376, says :

American vessels have this season been taking mackerel for bait in the harbor.

Peter S. Richardson, Chester, Nova Scotia, at p. 390, says :

I have known plenty of men catching their own squid in Newfoundland or Cause.

Holland C. Payson, Westport, Nova Scotia, at p. 399, says :

The small American schooners fishing in our vicinity catch their own bait.

John Purney, Sandy Point, Nova Scotia, p. 421, says :

The other day Americans were fishing for bait inside of Shelburne lights. One of the captains of the vessels told me he had taken 3 barrels that day in the harbor of small mackerel for bait. The United States vessels could not carry on their deep-sea fishery without getting fresh bait.

That is an epitome of the evidence, not the whole of it, and your honors will find on examination that the evidence is strong on the point, and that nearly all the witnesses agree that they cannot get on without the fresh bait. I am not going to touch on that point, because it was successfully dealt with by my learned friend Mr. Whiteway, who, I think, effectually settled the question of salt bait. It is admitted on all hands that it cannot for a moment compete with the fresh bait.

The next point to which I turn your honors' attention is a part of our case which has been made the object of attack on the other side, the Grand Manan fishery; I mean the fishery around the island of Grand Manan, Campobello, and Deer Island, and adjacent islands, and on the main shore of Charlotte opposite. I do not intend to call your attention to the evidence, for the time which has been given me in which to close my argument will not enable me to do so; I therefore pass it over by calling your honors' attention simply to the result of that evidence. It is proved by Mr. McLaughlin, who is admitted on all hands to be not only an able man, but an honest, straightforward man, a man who had a practical knowledge of the fishing business, and a personal friend of Professor Baird, that the British catch was in value over \$500,000 on the island of Grand Manan alone. He had especial reasons for knowing it, because he was fishery warden, and it was his business to find out what the catch was; and he says the catch put on paper was below the actual catch, for this sufficient reason, that the men to whom he went—and he went to every person engaged in the fishing—were afraid of being taxed to the extent of their full catch, and therefore gave him an underestimate of the quantity. When he explained to them that in point of fact he was only fishery warden, they said they knew he was something else, and that he was a county councillor, and they were afraid he would carry the information he obtained as fishery warden to the county council. Mr. McLaughlin says that the figures are entered under the mark. He then says that the catch of the island of Campobello and Deer Island is as large as the catch of Grand Manan. He says in regard to those three islands of Grand Manan, Campobello, and Deer Island, and the adjacent islands, that the American catch round those islands is as great or greater than the British catch; that is to say, there are two million dollars' worth taken round those islands. Upon the main shore, he says, from all he can learn, and he has talked with different men engaged in the business on the main shore, from Lepreau to Letite, there is as great a catch on the main shore as is taken round the islands.

That statement of Mr. McLaughlin, which was a matter of opinion, is corroborated as a matter of fact by Mr. James Lord and Mr. James R. McLean, who were not only practical fishermen, but were personally engaged in the trade, and own fishing-vessels. Mr. Foster says: "If you admit the statement to be true, look what follows. A larger quantity of herring is taken round Grand Manan than the whole foreign importation of the United States." We have nothing to do with that. The American counsel have undertaken to show that away out in the Bay of Fundy, on some ledges far beyond the three-mile line, at what they call the

"Rips," they catch a great many herring, as also at different places along the coast; but it does not appear by the returns. The United States do not import a great many herring. There is no pretense for saying that we make use of the United States market for our herring. A number of witnesses have proved (I have not time to read their testimony, but I state it as the fact) that the large market for salt herrings is to be found in this Dominion, in the different cities and towns from St. John to Toronto, and one witness stated that he had at Toronto met American salt herrings coming over the border, and competing with him in the market. And our herrings are also shipped to Sweden and elsewhere. Therefore, the remark of Mr. Foster, though true in fact, really has no bearing on the case.

How was this evidence sought to be met? It was sought to met by Eliphalet French, who is a merchant living at Eastport, a man who, if I recollect aright, had never been on the island of Grand Manan. He said he had knowledge of the fishery there, and he put his knowledge against the personal knowledge of McLaughlin, Lord, and McLean, because, said he, the whole trade comes through Eastport. There happens to be a division in the American camp on that point, for Pettes, who was another witness brought to contradict the statements made by British witnesses regarding Grand Manan, swears that very few herring go to Eastport. Whether he told the truth or not I do not know and do not care. They are not our witnesses, and it is not my business to reconcile their statements. It is curious that when those people were brought to contradict our evidence they could not agree. They not only undertook to contradict the British witnesses, but they contradicted each other. Then we had Wilford J. Fisher, who formerly lived at Grand Manan, but afterwards became a naturalized citizen of the United States, and now resides at Eastport. For eleven years back, for a number of years, at all events, his foot had never been placed on Grand Manan; he had no personal knowledge as to what the fisheries were for the last eleven or twelve years. Another witness was Pettes, who, after having stated that he was largely engaged in the fishing business, it turned out, caught about two hundred dollars' worth of herring in a year, was a boarding-house keeper in winter, and at other times ran a packet to St. Andrews. This is the man who contradicted French as to the herring trade with Eastport, and said none went there. And these are the men brought up to contradict McLaughlin! Asked if McLaughlin was an honest and respectable man, they acknowledge that he was; but Pettes, having no personal knowledge, undertook to say that his judgment in regard to the catch off the mainland and the islands was just as good as the judgments of those three men whose particular business it was to make themselves acquainted with it in every particular.

I never heard more reckless swearing—with great deference to the other side—in my life, except, indeed, the extraordinary affidavits may perhaps have out-Heroded it. For living witnesses, I never heard much more reckless swearing than was done by those gentlemen to contradict those whom they were obliged to admit were honest men, and whom they ought to have admitted possessed better means of knowledge. This is all I have to say on this point, except this: one of the witnesses, I believe Pettes, absolutely said he had never heard of the American fleet coming down there for herring.

Mr. FOSTER. I think not.

Mr. THOMSON. Then it was one of the others.

Mr. FOSTER. I think not.

Mr. THOMSON. It is not very important, except for the purpose of

arriving at the conclusion as to whether this man told the truth or not. That is the only manner in which it is important. That the American fishing fleet comes down here every year is a settled fact. But there is an important point connected with this fleet, to which I respectfully call the attention of the Commission. It is a confessed fact that the American fleet does come down there, that very large quantities of herring are taken, and have been taken yearly, and will be taken for all time to come, I suppose; but not one single captain of all that fleet—and the names of the captains and vessels they commanded are known—has been put on the stand for the purpose of contradicting the British evidence in regard to the fisheries of Grand Manan and the adjacent shores of New Brunswick to the north of it. That is a most extraordinary coincidence—that not a single man of all that fishing fleet has been called for the purpose of giving evidence on that point.

Mr. FOSTER. You are entirely mistaken about that. Here is Ezra Turner, and Sylvanus Smith had been there.

Mr. THOMSON. He had not been engaged in the fishery for eleven years back, if my memory serves me right. We will take Ezra Turner first. I am speaking now of within the time covered by the testimony of those witnesses whom the four witnesses were called to contradict. If you say Ezra Turner comes within the reference, I am quite willing to be shown that such is the fact.

Mr. FOSTER. What time do you say is covered by the witnesses?

Mr. THOMSON. I say it was during the time of the Reciprocity Treaty, and possibly a few years later.

Mr. FOSTER. If you look at Ezra Turner's evidence, on page 227, you will find the following:

Q. In regard to the herring fishery at Grand Manan, have you been in that neighborhood after herring?—A. Yes; I suppose I was the man who introduced that business.

Q. How many years ago was that?—A. That is 25 years ago, I guess.

Q. Did you go there to catch herring or to buy them?—A. That is the way all our vessels do: they go and buy them from the inhabitants there, who fish the herring and freeze them.

Q. When were you there last?—A. I was down there last year; last winter. I only stopped a little while.

Mr. THOMSON. Was he down there as captain of one of the vessels?

Mr. FOSTER. He is a man who has been captain all his life.

Mr. THOMSON. What I said was, that of all the fishing-fleet coming there, not one of the skippers had been called for the purpose of contradicting the evidence given by McLaughlin, Lord, and McLean, and they could not contradict it unless they were down there as captains during the period over which the testimony of these men runs. Now, as far as I remember, Turner has not done so.

Mr. FOSTER. Here is the evidence of Lawrence Londrigan, who was there last winter in the J. W. Roberts. He does not come within the terms of the statement because he was not captain. P. Conley was captain of the vessel. Londrigan, in his evidence, says:

Q. What were you doing last winter?—A. I left to go in a vessel for frozen herring.

Q. What is the name of the vessel?—A. J. W. Roberts.

Q. Where did she hail from?—A. From Rockport, Me.

Q. Who was her captain?—A. P. Conley.

Q. When did you start from Rockport?—A. 16th December.

Q. How long were you gone?—A. We were at Beaver Harbor and around Grand Manan about two weeks.

Q. Were other vessels there?—A. Yes.

Q. How many?—A. Electric Flash, Madawaska Maid, Mary Turner, Episcatawa.

Q. How many frozen herring did you get?—A. Some were bought frozen and some were bought green and took ashore, and some we froze on the deck of the vessel.

Q. What did you pay for them?—A. For most of them fifty cents a hundred; for about 25,000 forty-five cents a hundred.

Then I can quote from affidavits.

Mr. THOMSON. I believe I am making an admission which is not borne out by the evidence when I say I admit you can turn out twenty such cases as this, which is no contradiction, nor does it fall within that to which I called attention. I said not a captain had been called as a witness—and I am willing to treat this man as a captain—for the purpose of contradicting the British witnesses. Our witnesses swear that the Americans come down and get an immense quantity of fish there, to the value of one million dollars yearly. This man (Londrigan) comes down and partly bears out that evidence. He comes down to tell you how many herring the captain of the vessel bought and paid for. Is that any contradiction? It is a direct affirmative. But if half a dozen captains were put on the stand and said they had been acquainted with the fisheries all their lives, and for the last two years that no such catch of herring as was alleged was ever made by the American fleet, which we know from our experience is not possible, that would be no evidence in contradiction. So far from this evidence, to which Mr. Foster has called attention, being contradiction, it is direct evidence in confirmation.

Mr. DANA. Is your position that we caught the herring?

Mr. THOMSON. I say you either caught them or went down and hired people to get them, and by the rule *qui facit per alium facit per se*, you caught them yourselves.

Mr. FOSTER. Do you say we caught them or bought them?

Mr. THOMSON. I say you did both. I say that a large portion of them, according to the evidence, you bought. This man comes down and buys. Suppose 500 people did buy, does it prove that 900 people did not come down and catch?

Mr. FOSTER. We had Gloucester vessel-owners here who testified that they fitted out their vessels, carrying no appliances to catch herring; that they carried money and brought back herring, leaving the money behind them.

Mr. THOMSON. With great deference for Gloucester merchants—I shall have to deal with their evidence by and by—those who have appeared before the Commission in affidavits do not stand so well that much attention can be given to their evidence. I want the evidence of men on the spot, of men who came down and fished. It was quite possible for some of the captains, of whom there is a large body, to have been brought down; they could have been got. We have produced positive, affirmative evidence that they come down and catch fish, while no evidence has been given against that; and it is a significant fact in regard to the Grand Manan fisheries that not a single tittle of contradictory evidence, of such a character as to diminish one pin's weight from the British evidence, has been advanced.

Mr. DANA. Your statement was not that you did not believe the evidence, but that there was no such evidence.

Mr. THOMSON. I am not going to say I do not believe the witness. I take the witness to whose evidence Mr. Foster called attention, and I say I am willing to admit you could produce twenty such witnesses, and so far from their testimony being contradictory it is affirmatory. The American counsel has not shown that every man who obtained herring bought them; they could not prove their proposition in that way. It did not prove that because somebody bought, therefore nobody caught any.

I pass from that to a principle which is laid down by Mr. Foster at page 41 of his speech, in which he says, "You must look at this case as you would at a mere business matter, pencil in hand, and figure up how

much to charge against the Gloucester fishermen." This is the error, the fallacy that underlies the whole American defense to our Case—that the question to be decided is one between Great Britain and Gloucester fishermen. It is no such thing. It is a question between the United States and Great Britain, and not whether these fishermen have been injured or the reverse. The question is, whether the United States have got a greater benefit by the advantages which have been given them under the treaty than we have by the advantages given to us.

What is the effect of free fish going into the United States? Is not the effect that the consumer gets it cheaper? and the consumers are inhabitants of the United States. It is alleged that the business is going to be broken down. When that happens it is time enough to talk about it. It is said that the fresh-fish business is going to entirely destroy the trade in salt fish, for fresh fish can be packed in ice and sent over the Dominion, and as far as Chicago and Saint Louis. I do not doubt but that that may be done to some extent, but it will be very expensive. I doubt whether fresh fish can be carried as cheaply as salt fish; it must be very expensive to carry it in the refrigerator cars; and fresh fish of that description can only be purchased by large hotels and people who have plenty of money; but the ordinary consumer cannot afford to eat fresh fish, which is much more costly than salt fish. The trade in fresh fish must be confined to the line of railroads; it cannot be taken by carts into the country, while barrels of salt fish could be rolled off at any station. Therefore this point is entirely out of the argument. But the principle laid down is entirely incorrect.

The question is, what benefit is the treaty to the whole United States? I will show you by figures which cannot possibly be mistaken that previous to the Reciprocity Treaty the price of mackerel in the United States was at a pretty large figure. The moment the Reciprocity Treaty threw open the American market and there was a large influx of our fish, the prices fell. That state of things continued from 1854 to 1866. In 1866, when, by the action of the United States Government, the Reciprocity Treaty became a dead letter, the same state of things that existed before the treaty again existed. Fish which during those years, had been cheap to the consumer, rose in price. I will show that the moment the Treaty of 1871, the Washington Treaty, under which this Commission is now sitting, was passed and went into operation the same result again followed. The prices of mackerel and other fish, which had been high, fell. What is the argument which necessarily flows from that? It is that the consumer thereby gets his fish a great deal cheaper; there can be no doubt about that. But there is another view which must be taken. If it be true, as has been contended in evidence, that Gloucester merchants could not carry on their fishing operations without having access to our shores, and I think it is clear and conclusive that they cannot carry on the mackerel fishery in the bay, for instance, without going within the three-mile limit, there is an end to the question. They cannot carry on a large business in their own waters without the assistance of our fisheries; they cannot carry on the fishery in the bay—the great mass of the testimony shows that—unless they get access to the shore line. To concede, for the sake of argument, that large schools of mackerel are to be found in the body of the Bay of St. Lawrence, and sometimes taken by seine and sometimes by hook and line; those schools, in order to be available to the fishermen, must be followed by them, and if they undertake to follow the schools they must make up their minds to go within three miles of the shores or lose the fish. The whole evidence shows that, and that the fishermen came into the inshore waters even when the cut-

ters were there and ran the risk of seizure; and that was to them a dreadful occurrence—the forfeiture of the vessel. They knew the dangers, and yet they ran the risk. These men knew their business, and would not incur the risk to their property without obtaining a return. And what was the reason? They could not do without the inshore fisheries, and rather than go home without a catch, they ran the risk of seizure.

It is said, on behalf of the United States, that during the last few years, notwithstanding the American fishermen have been free to go into any portions of the bay, they could not make catches. Let me dispose of that at once. If it be true that the Americans have gone into the bay since the treaty went into operation, and failed to get large catches, it has resulted from the ruinous system of purse seining, a system which has destroyed the fisheries on their own coast, and will do so everywhere else. The effect, as has been graphically described by a number of witnesses, has been such that all the fish which can be gathered in the net, which is swept round for a mile or more, are taken in that tremendous seine—thousands of barrels at a time; they can only take out so many at a time, in the interval a large portion die and are unfit for food. It is a most disastrous mode of carrying on any fishery, and must be ruinous; and I hope, for the sake of the United States themselves, and the fishermen who carry on the fisheries, that the day will come, and will soon come, when the destructive purse-seine fishing will be prohibited.

There is one requisite, without which purse seining in our own waters is an utter failure—there must be deep water, or if there is not very deep water, there must be a smooth bottom. In the gulf there is not very deep water, and the bottom is exceedingly rough. Because some among American fishermen got exceptionally large catches with purse-seines off the United States shores, they persist in using purse-seines in the gulf. What is the result? The fishermen do not dare to approach the shores for the purpose of using the seines. They would be quite useless near the shores, and are nearly so in the body of the bay. What is the result? They come back without catches, and then undertake to say there is no fish in the Bay St. Lawrence. The truth is they go with appliances utterly unfit to take the fish there. That is the truth about the matter. I say it is the purse-seining that makes the whole difficulty; and if they had stuck to hook and line they would have had all these years back as good fishing in the bay as they could get anywhere.

But, under all the circumstances, can they get on without the right to enter the shore fisheries? The moment they get into the shore fisheries they get full fares. There is no conflict of testimony upon that point. And for this reason. We have shown by a mass of testimony that there are no large catches to be made without the right to go inshore. What is the evidence brought to contradict that? It is evidence given by men who have not caught any fish inshore. Very few have undertaken to say that they have gone inshore and failed. The whole testimony has shown that the American fishermen cannot get along without the inshore fisheries.

In estimating the value, if it be true that their own codfishery cannot be carried on without our bait; if it be true they cannot supply their own market with mackerel from the American shores without getting a supply from the Gulf of St. Lawrence; and that they cannot get mackerel in the gulf without going inshore, we make out our case, do we

not? It is not a question as to what each fisherman sailing out of Gloucester is to be charged. The question is this, whether the United States must not pay for the privilege that enables Gloucester to maintain its present state of prosperity. Every nation has said, every nation has considered, that the fisheries form the nursery of her fleet. It is a business which has been nurtured by large bounties by the United States and other countries. The class of fishermen is a favored, privileged class. This is the most ancient calling in the world. And can it be said it is nothing to the United States to keep up that class? Is it nothing that they have there the nucleus, out of which their naval force must be kept up? The United States cannot get on without her Navy; she must have a great Navy. It is not sufficient that she should be a great power on land; she intends to be, and I hope always will be, an important and great power on the sea. And how can she be a formidable naval power in the world, unless she has some means of nurturing her marine; and how is that to be nurtured, except through the fisheries? It is one of the most important schools she can possibly have. I shall have to call your attention to speeches on this point in which it is shown to be one of the benefits accruing to the United States. I therefore say, that when Mr. Foster laid down the extraordinary rule that your honors must approach the consideration of the question of value as a common matter of business, with pencil in hand, he took a narrow and erroneous view of the matter, for there is the fallacy underlying their whole case, that it is a question between the fishermen of Gloucester and Great Britain, when it is nothing of the kind.

Upon the question of the value of the two fisheries, alluded to by Mr. Foster, tables were put in by Major Low to which I wish to call your honor's attention. In Major Low's evidence, page 402, he gives two statements of Mr. Steele's transactions, showing the average of monthly earnings of Mr. Steele's fleet each year, from 1858 to 1876, in each department in which they were employed, after paying stock charges and so forth. In 1858, the number of vessels was 8. I am reading now from an analysis of Major Low's tables, made up very carefully by Mr. Miall, of Ottawa, a very able man in statistics, who has given me a great deal of assistance in this matter, and who is very accurate in his figures.

Mr. FOSTER. Let Mr. Miall be put on the stand as a witness.

Mr. THOMSON. All you have to do is to refer to Major Low's evidence. I want to call your honors' attention particularly to this, because a large portion of the evidence submitted by the United States was for the purpose of showing that the cod fishery was an important business, and the mackerel fishery was not. This is the sum total of Major Low's own figures, as put in for the years from 1858 and 1876, the average earnings of each vessel in the cod-fishing business per month was \$393, while the average earnings of each vessel per month in the bay mackerel business was \$442, and on the American shore only \$326. These are Mr. Low's own figures, and the results which they prove. Here is the statement:

Analysis of statement of Messrs. Steele's transactions, put in evidence by Major Low, a witness on behalf of the United States, showing the monthly earnings of Messrs. Steele's fleet, each year from 1858 to 1876, in each department in which they were employed, after paying stock charges and crews' wages.

Year.	No. of Vessels.	COD-FISHING.			BAY MACKEREL-FISHING.			SHORE MACKEREL-FISHING.		
		Time engaged.		Vessels Share.	Time engaged.		Vessel's share.	Time engaged.		Vessel's share.
During Reciprocity Treaty :		Months.	Days.		Months.	Days.		Months.	Days.	Pages.
1858	8	31	7	\$215	33	22	\$318	.....	1	.....
1859	10	33	9	271	42	13	246	.....	.....	.....
1860	11	42	15	211	33	18	273	.....	7	24
1861	11	55	3	158	22	3	202	6	14	\$477
1862	9	59	8	243	14	16	326	2	27	235
1863	9	39	14	392	20	7	659	1	24	190
1864	8	37	6	407	27	25	800	.....	.....	209
1865	8	26	24	836	34	9	736	.....	.....	.....
During dutiable period :										
1866	10	36	6	551	43	9	617	.....	.....	.....
1867	10	52	9	410	34	13	464	.....	18	130
1868	10	66	6	488	17	16	301	.....	.....	.....
1869	8	48	21	545	19	3	392	.....	.....	.....
1870	7	37	26	404	.....	.....	.....	17	18	426
1871	6	35	17	381	.....	.....	.....	14	9	299
1872	10	56	9	416	5	5	513	7	13	309
During Washington Treaty :										
1873	8	57	11	482	13	8	483	.....	.....	.....
1874	9	63	25	466	11	25	290	.....	.....	.....
1875	9	61	27	430	9	16	546	.....	.....	.....
1876	13	74	11	360	17	21	231	.....	.....	.....
Average.....	9 1-10									
Time engaged annually.....		48 months.....			21 months, 3 days.....			3 months, 3 days.....		
Time engaged per vessel.....		5 months.....			2 months, 10 days.....			10 1-5 days.....		
Vessel's earnings per month per vessel.....		\$393.....			\$442.....			\$326.....		

Mr. FOSTER. I understand that this paper will be put in, that we will have an opportunity of examining it, and of replying to it, if justice is done.

Mr. THOMSON. We will have no mistake about that matter. I am quoting from a paper what the result of Major Low's evidence is.

Mr. FOSTER. Here is a table of statistics presented and held in the hand, and we are told with what care and by what skillful hands it has been prepared, and yet they do not propose to give even the details from which the result is made up.

Mr. THOMSON. I will hand over the figures, and you can look at them.

Mr. FOSTER. I say we are entitled to have it to examine, and we are entitled to reply to it. If the learned counsel is allowed to read anything prepared by Mr. Miall, whom he has had at work all summer and did not see fit to call as a witness, we certainly are entitled to examine it and reply to it.

Mr. THOMSON. If you will look at page 402 A of the American Evidence you will find the table. You will find by that, which contains Major Low's figures, that, from 1858 to 1876, Mr. Steele's vessels made an average of \$393 per month during the time they were cod-fishing. That is what the statement shows; whether it is true or false, I neither know nor care. These figures also show that, in American waters, the earnings per month per vessel while mackerel-fishing were only \$326, while in the bay mackerel-fishery the vessels made per month, during

the summer season, an average of \$442. That table was put in for the purpose of showing the comparative values of the several fisheries—the cod-fishery by itself, the mackerel-fishery on the American shore, and the mackerel-fishery in the bay; and the result is just what I state.

Sir ALEXANDER GALT. The statement, I think, must be made as part of your argument.

Mr. THOMSON. There is no intention to offer the statement as evidence—it is argument; but I think it would be very unfair if I did not point out where the result stated was to be found. Surely, it is easy to see what the result is.

Mr. FOSTER. We do not object to your assertion as to that being the result.

Sir ALEXANDER GALT. It is now, I judge, the business of the Commission to say whether the evidence bears out the statement. The time has passed for receiving evidence.

Mr. FOSTER. I assent to that, with a certain qualification. That is the ultimate business of the Commissioners; but when, at the end of the last argument, a statement of that sort is brought forward, of which no previous notice has been given, although ample notice might have been given, then common justice and the rules that apply before all tribunals that I ever heard of, give to the parties who have not the last word the right of making an explanation. It is just what we gave notice would happen, if, after all our arguments were made, the other side were allowed to reply, and sometimes in derision, and sometimes sportively, the phrase that fell from me, that I believed masked batteries would be opened, has been repeated during the investigation. It is just what I meant by the phrase; it is bringing out at the end something that requires explanation, and then trying to cut off the opportunity of giving that explanation. I never knew that attempt to succeed in a court of justice, and I do not mean that it shall succeed here till we have done our utmost to prevent it. So, then, the learned counsel puts in these statements at this time; we will have overnight to examine them, and if we require an opportunity to make an explanation, we expect to be heard upon it to-morrow.

Mr. THOMSON. I can only say that not one figure has been referred to by me on this point that is not to be found in Major Low's statement, put in a long time ago. But he absolutely admitted it himself, in so many words, in his cross-examination. I call attention to his evidence on page 389, given on 5th October, more than a month ago. At the bottom of that page you will find his cross-examination by Mr. Davies, as follows:

Q. Dividing the number of the vessels into the results, what will it leave you?—A. \$623.

Q. So that the average catch per month of the vessels employed in the American shore fishery from 1855 to 1865 amounted in value to \$623, while the average catch per month of the vessels engaged in the Gulf of St. Lawrence fishery realized \$998?—A. Yes.

Q. And the average value of the catch of the vessels engaged in the gulf fishing for the same period of time was \$998?—A. Yes.

Now, how can my learned friend say that we are springing any new matter upon them. Here is their own testimony, given by the man of statistics from Gloucester, the great man who came here literally shielded by *Steele*. It is the most extraordinary thing I ever heard in my life.

Now, I want to follow this matter up a little. These statistics were put in for the purpose of proving two results, viz, that the mackerel catch on the United States shores was a first-rate one, and the catch in the bay was a very bad one; but it happens that, by their own showing,

they prove just the contrary. I repeat what I said yesterday, that Mr. Davies captured that gentleman morally by his own confession.

We will now turn to another portion of his testimony. I call your honors' attention to a statement put in by Major Low, at page 338 of his evidence. He is asked by Mr. Dana, as follows:

Q. Have you ever made up any statistics relative to the shore and gulf fisheries, showing the difference between the American-shore fishery and the Gulf of St. Lawrence fishery?—
A. Yes; and the statement is as follows:

Number of fishing vessels in Gulf of St. Lawrence mackerel fishing and the American shore mackerel fishery.

		Barrels.
1869.	194 vessels in gulf, average catch 209 barrels.....	40,546
1869.	151 vessels offshore, average catch 222 barrels.....	33,552
	Mackerel caught by boats and some eastern vessels packed in Gloucester...	19,028
	Mackerel inspected in Gloucester	93,126
1875.	58 vessels in gulf, average catch 191 barrels.....	11,078
1875.	117 vessels, American shore, average catch 409 barrels	47,853
		58,921

The average catch is based on the average catch of 84 vessels from 17 firms in 1869; and 28 vessels in bay and 62 vessels off American shore from 20 firms in 1875. These firms have done better than the rest.

I desire particularly to call your honors' attention to this extraordinary statement. They select as a specimen of the catches on the American shore, not a series of years, say from 1869 down to the present time; but they select 1869, which, according to the evidence, was the worst year of the fishery in the gulf, and 1875 happened to be the best year the American fishermen have had on their own coast, and put the statement before this Commission as a fair average of the result of the two fisheries. Now, this man was under oath, and this statement was put in, and if I can show you from his testimony that he afterwards had to admit it was not a fair way of submitting the matter, and the average was totally different, I say I am justified in characterizing this piece of conduct on the part of Major Low as a gross attempt to deceive the Commission.

Mr. FOSTER. Major Low had made a collection of statistics in 1869 for the purpose of a report, as town clerk of Gloucester, long before the treaty was made, and wholly without reference to it. In 1875 he made another, for the purpose of the Centennial, both of them wholly aside from the purpose of this investigation. Now, in seeking for light, we sought from him only the statistics he had made. As to 1875 being the best year on our coast, that is a very great mistake. If you will turn to Table B, Appendix O, which shows the number of barrels of mackerel packed and inspected in Massachusetts, from 1850 to 1876, you will perceive that 1875 was a very bad year, and far below 1876 and 1874, and the shortest year for quite a series of years. So the statement that 1875 was selected as a good year is quite out of the way.

Mr. THOMSON. In view of what I showed this morning to be the contents of Appendix O, I think Mr. Foster is very bold to refer to it.

Mr. FOSTER. It shows that the catch in 1875, even that of Bay St. Lawrence, was a very small one.

Mr. THOMSON. Let us see what Major Low says about this table at page 389.

Mr. FOSTER. It is given at page 359. Four questions and answers

contain an explanation of how they were made up, only you do not happen to read them. Just read them.

Mr. THOMSON. This question is put to Major Low by Mr. Dana.

Q. In order that the Commission may understand whether these Gloucester merchants, when making these statements here, are guessing at what they say, or have absolute data to go upon, and know what they are about, you have, at our request, made an examination of the books of one of the firms?—A. I have examined the books of the most successful firm engaged in the bay mackerel fishery.

Q. That is the firm of Mr. Steele?—A. Yes. I did this of my own accord, because I wanted the Commission to see how these books are kept.

Q. Will you produce these books?—A. I have the trip-book, which I have numbered one, for the years since 1858 and 1859; their previous books were burned in the great fire at Gloucester in 1864. I have the trip-books for the years extending from 1858 to 1876 inclusive 19 years.

Mr. FOSTER. Go back to what you were upon.

Mr. THOMSON. It is as follows:

Q. You do not, I suppose, include in this statement any but vessels; it has nothing to do with boat-fishing?—A. No.

Q. Will you state from what source you have made up these statistics?—A. The information concerning the vessels which fished in the gulf, and those which fished off our shore, I obtained and tabulated for the information of Gloucester, when I was town clerk, in 1869, and the report for 1875 was procured for centennial purposes—not by myself, but by some one who did his work well.

Q. Can you say, as a matter of belief, that these statistics were made up for Centennial purposes, and not with reference to this tribunal?—A. Yes; I believe that is the case.

Q. From what sources were those for 1875, for instance, taken?—A. The catch was taken from the reports of the number of firms I mentioned.

Q. To how many firms do you refer?—A. These include the most successful firms, George Steele, &c.

Q. Those are firms that had been the most successful, whether on our shore or in the Gulf of St. Lawrence, which are to be considered the most successful firms in Gloucester?—A. George Steele, Leighton & Co., Dennis & Ayer, and Smith & Gott.

Q. These are generally considered to be the most successful firms?—A. Yes.

Q. Were they all included in this return?—A. Yes.

Q. The tonnage of the vessels was somewhat larger in 1875 than it was in 1869?—A. I think not. I think it was about the same.

What does that amount to? That he made up the statement for 1869 for the Centennial, and the other for some other purpose; but he brings them both for the purpose, as I charge upon him, of deceiving this Commission.

Mr. TRESCOT. He tells you what they are.

Mr. THOMSON. I say again that when a witness puts in evidence statements such as these—because there was no object in showing what the catches were 1869 and 1875, unless it was intended as a fair specimen of the average years—and has the information in his own breast by which directly opposite results would be shown—a witness who comes here and makes such a statement does so deliberately to deceive the Commission.

Your honors will recollect that nothing but the trip-books were produced; though we gave notice to produce the other books they did not do so. Look at page 385 and see what Major Low says on this subject, and then say whether he is a gentleman whose testimony can be depended on. At page 385, towards the bottom, there is the following:

Q. In the first place, is George Steele a charterer of vessels?—A. No.

Q. Then this statement, which assumes to relate to George Steele's business, as his name is mentioned as the charterer of the vessel, does not represent an existing state of facts, but is merely a theory which you put forth?—A. I supposed I had mentioned on the account that it was an estimate.

At pages 368 and 369 of Major Low's evidence, a statement is handed in entitled "Number of vessels engaged during 17 years, from 1858 to 1876 inclusive, in the Gulf of St. Lawrence mackerel fishery, excepting

the years 1870 and 1871, when none were sent, by George Steele, of Gloucester, 107; average time employed yearly 4 months 13 days; average number of hands employed yearly for 17 years 15." In regard to that, I desire to call attention to the evidence on page 385, your honors bearing in mind the fact that Mr. Dana put to Major Low the question that he had examined the books for the purpose of giving a statement which could not lie—no guess-work, but absolute verity, so far as the books were concerned. Mr. Davies on cross-examination elicited the following:

Q. The owner would suffer no loss though the charterer would. It seems singular, does it not? You say this is where a man chartered a vessel?—A. Yes.

Q. In the first place, is George Steele a charterer of vessels?—A. No.

Q. Then this statement, which assumes to relate to George Steele's business, as his name is mentioned as the charterer of the vessel, does not represent an existing state of facts, but is merely a theory which you put forth?—A. I supposed I had mentioned on the account that it was an estimate.

Q. That is the real fact, is it not?—A. Yes. The real fact is that I made a mere estimate in this regard.

Now, that is a most extraordinary statement.

MR. FOSTER. In what regard?

MR. THOMSON. In regard to this, that Mr. Dana put forward Major Low as a man who had examined the books of Gloucester merchants for the purpose of getting an absolutely correct statement, and no guess-work, yet we find him coming forward with a deliberate piece of guess-work.

MR. FOSTER. He made a statement from the books, and then made a supposititious hypothetical case of one voyage to show what the result would have been.

MR. THOMSON. At page 386, your honors still bearing in mind that this was to be no imaginary matter, but absolutely made up from the books, a number of questions are put by Mr. Davies:

Q. How did you get these 13 or 14 trips?—A. I saw the trip-books. I asked Mr. Steel for permission to show them to the Commission.

Q. You then had the opportunity of examining his books?—A. Yes, as to his trip-books, but not as to his ledger.

Q. Did you ask for his ledger?—A. I did not.

Q. I suppose if you had done so you would have obtained access to it?—A. Probably I should.

Q. Therefore you do not know what his books show as to actual profit and loss sustained by him during this period?—A. I do not.

Q. And the actual state of facts may be at variance with the theory you advance?—A. I hardly think so.

Q. Supposing that George Steele stands in the position you assume in this statement, he would be bankrupt beyond all redemption?—A. Yes.

Q. You have proved him from theory to be bankrupt beyond all redemption when, in fact, he is a capitalist worth \$45,000, which exhibits the difference between the practical statement and the theory?—A. Yes, but he had capital when he went into the business.

Q. Do you state that he brought it in with him?—A. One-half of it was made in the sailing business.

Q. Where was the other half made?—A. In the fishing-business, during 19 years, but that is only \$1,000 a year, and he ought to make that.

Q. The actual loss on each vessel, for 107 vessels, you place at \$167?—A. Yes.

Q. Will you make that up and tell me for how much he ought to be a defaulter?—A. His loss would be \$17,869.

Q. And that is not consistent with the facts; he is not a defaulter to that amount?—A. He has made it up in other parts of his business, but as far as his vessels are concerned, he has probably lost that sum.

Q. You did not get access to his profit and loss ledger?—A. No.

Q. That would show exactly how it is, and this is an imaginary conclusion?—A. Yes; I could not make it up without the actual bills of expenses for his vessels. I thought it was already understood that this was imaginary.

Now, this is the testimony that is given in answer to Mr. Dana's request that the statement should be perfectly true.

WEDNESDAY, *November 21, 1877.*

The Conference met.

Mr. Thomson continued his closing argument in support of the case of Her Britannic Majesty.

YOUR EXCELLENCY AND YOUR HONORS: When we adjourned yesterday I was referring, I think, to a statement produced by the American witness, Low, the figures of which were prepared to show the respective values of the fisheries on the American shore and in the Bay St. Lawrence for a period of years, from 1858 down to 1876 inclusive. It appeared, however, on cross-examination that the earnings of the vessels engaged in cod-fishing averaged each \$393 per month after paying off the crews and liquidating the "stock charges;" the vessels mackerel-fishing on the American shore made \$326 per month; while those mackerel-fishing in Bay St. Lawrence averaged each \$442 per month. These figures, as determining the relative values of these fishing-grounds, to which I will hereafter call your attention, are, I conceive, conclusive. While Low was on the stand he put in statements from the books of George Steele and Sinclair and Low. The statement of Steele, which is to be found on page 402 of American evidence, shows when the figures are examined that the bay-catch from 1858 to 1876 was 33,645 barrels, of the value of \$403,832. It shows that the catch extending over the same period of time on the American shore was but 5,395 barrels, of the value of \$43,101. The average price of the bay-catch per barrel was \$12, and of the shore-catch \$7.99. Now that, your honors will see, is important, for it comes from Major Low, who came here for the purpose of proving directly the opposite. He came here to sustain the extraordinary view that was presented in the American Answer and by American witnesses, namely, that the fish caught on the American shore were more valuable than the fish caught in Bay St. Lawrence. Unfortunately the figures by which it was attempted to prove that, proved directly the reverse. Your honors have only to take up the American evidence at page 402, and take the statement A, to find the result. The statement of Sinclair and Low, which is found at pages 380 and 381, shows that in the years 1860, 1861, and 1862 the bay-catch was 3,645 barrels, bringing \$23,059, or an average of \$6.32 per barrel, whilst the catch on the American shore was 1,024 barrels, bringing \$5,532, or an average of \$5.42 per barrel. Sylvanus Smith, an American witness, when on the stand, produced a statement, or his evidence will establish, that from 1868 to 1876 his bay-catch was 10,995 barrels, realizing \$111,703, averaging \$10.16 per barrel; whilst the United States shore-catch was 19,387 barrels, bringing \$176,998, or \$9 per barrel, \$1.16 less per barrel than the bay-catch. Procter's statement shows that his bay-catch from 1857 to 1876, for 19 years, was 30,499 barrels, realizing \$345,964, or an average of \$11.57 per barrel. Procter gives no American shore-catch. I suppose he had good reason for not doing so. I presume that the figures would not have compared favorably.

It is remarkable that the statement of Sylvanus Smith (which is to be found at page 330 United States evidence) is taken for the period from 1868 to 1876, when the American fisheries were said to be at their best, I think. But be that as it may, he shows—although he came here for a different purpose—that his bay-catch was 10,995 barrels, realizing \$111,703, or an average of \$10.16 per barrel; whilst his catch on the American shore was 19,387 barrels, realizing \$176,998, or an average of \$9 per barrel. Now these statements are put in by Mr. Low, with the exception of those of Sylvanus Smith and Procter, who, though brought here for another purpose, was obliged in cross-examination by Mr.

Davies to admit the facts which I have shown. It is significant also that Low was put forward by Mr. Dana as a gentleman who would put in statements direct from books in order to insure accuracy, and Mr. Dana himself takes this view in his speech, for he says, after commenting somewhat severely on the British evidence, "Now, let us turn to evidence that can be relied on"—the evidence of books. Yet Low, though he had full access to the books, did not care to take the whole of the contents, such as they were, but he chose only to take certain figures and hold back those on the other side of the account in favor of the gulf fisheries; and he is obliged to admit that he made the statement up merely as an estimate. This is significant, because at first it was put forward that all these were accurate statements. Why the man who came here professedly to give the contents of the books of the Gloucester merchants engaged in the fishing business should give an estimate instead of the actual facts passes my comprehension.

Mr. FOSTER. You are entirely incorrect; the statement he came here with was an estimate. He made an estimate for one voyage, after putting in the result of the analysis of the trip-books, and after the whole trip-books were before you.

Mr. THOMSON. I say that the trip-book only shows certain expenses connected with a particular voyage; not the whole expenses of the vessel. There was no record therein as to what was paid for provisions, for coal, and a number of articles. And while I am on that subject I may mention that hard coal was charged in one of the accounts—I forget which, but your honors will recollect—at the rate, I think, of \$10 a ton. It struck me as an exceedingly high price, when it can be bought in St. John for \$5.50 and perhaps less. It struck me as very odd.

Mr. FOSTER. It depends on the year.

Mr. THOMSON. Well, this year. Cordwood—for what purpose it is required I do not know—is entered at \$8 or \$10 a cord, while Mr. Patillo said in cross-examination that he had bought it at \$2.75 per cord. These are all little straws on the current showing which way it is running.

Mr. FOSTER. He never said that in the United States he could buy it at that price.

Mr. THOMSON. He got it at Canso. He said the American fishermen all got their wood at Canso; and I then asked him how much they paid for it. It is wholly absurd to suppose that shrewd American fishermen would buy their wood in the United States and pay a high price, when they could get it at Canso, which was directly on their route, at \$2.75 a cord.

Mr. FOSTER. He has been out of the business since the end of the war, and Steele's books are for later years.

Mr. THOMSON. I apprehend that Steele's trip-books do not show what was paid for wood, and the other books have not been produced. It is true the extraordinary offer was made to us that we should go down and examine all the books of the Gloucester merchants. I greatly doubt whether the learned Agent of the United States could have borne me out if I had gone into one of the Gloucester houses and asked to see their books.

Mr. FOSTER. You had better come and see.

Mr. THOMSON. And besides, judging from the two sets of affidavits which have been filed, both professing to come from one set of books, it appears as if these were different sets of entries in the same books relating to the same subject, or that they were taken from different books.

Mr. DANA. Do you mean that the offer was not made in good faith?

Mr. THOMSON. I do not mean to say the offer was not made in good faith. It was also rejected in good faith. We knew exactly where we were. I apprehend that the agent and counsel of the United States could have no possible authority to enable us to go into the stores of Gloucester merchants and search their books. I think that like Pattillo they would have asked for our authority.

Mr. DANA. It is very well to make sport out of it, but you are calling in question the honor of persons.

Mr. THOMSON. If Mr. Dana thinks I am calling in question the honor of counsel, I must say I am doing nothing of the kind. I would be very sorry to be misunderstood. We have got along so far very pleasantly at this Commission, and I hope we will do so to the end. I state most distinctly on my honor that I have not the slightest idea of charging any dishonorable motive on the part of the United States counsel; but I mean to say, that, though the offer was made in good faith, it was rejected in good faith, and for the reason which I have stated.

These are the last observations I have to make in regard to Low. He certainly was a most preposterous failure, coming here as he did, paraded as a man of figures and statistics, having the title of major in the army, and having filled the office of postmaster, and I don't know how many more offices. He was brought here to destroy our case, and by his answers on cross-examination he really benefited it as much as a witness could possibly do. I think that the only parallel case to that of Low—and it may be a parallel case—occurred some thousands of years ago on the hills of Moab. I can imagine Mr. Collector Babson, who appeared to have charge of a great number of witnesses, and marshalled them in and out, saying to Low, after he had given his evidence, in the same language as was used by the King of Moab to the Prophet Balaam, "I brought you here to curse mine enemies, and 'Low' you have blessed them altogether these three times; now depart into your own country." And I presume he departed.

There has been some difference of opinion as to the catch taken within the limits. It has been put down by a large number of witnesses as being at least a two-thirds catch; some of them have said it was a nine-tenths catch. Mr. Foster has based his argument on the assumption that it was a one-third catch. The evidence on our side is overwhelming on this point. I called your honors' attention yesterday to the fact that the evidence produced to answer our case was given by *witnesses who had not been on the ground themselves at all*; they fished, they said, elsewhere, and did not value the inshore fisheries, simply because they did not choose to use them.

Let us refer to the testimony of some of our witnesses:

Mr. Simon Chivirie stated that two-thirds at least of the mackerel caught off Prince Edward Island is taken within three miles of the shore, and some seasons none could be caught outside (he spoke from an experience of thirty years), the reasons being that mackerel come inshore to feed. In the Bay of Chaleur the fishing is all inshore, the reason being that in the center it is deep water with a strong current. On the south side are banks where fish food abounds.

Mr. McLean stated that he himself had seen vessels among schools of mackerel, as far as the eye could see either way along the coast, right inshore. He had seen mackerel taken with jigs in two fathoms of water. Mackerel, he said, are only taken when shifting, excepting in shoal grounds or on banks. When he was in the habit of fishing, all the mackerel he took was within three miles of the shore.

Mr. Campion said he did not fish outside the limit, because there were

no fish there. Some vessels used to drift off the land, but they would have to sail in again; they could get no fish beyond the three mile limit.

Mr. Campbell stated that two-thirds of the fish taken by the fishing-vessels in the Bay of Chaleur are taken within the three-mile limits. The American fleet, he said, caught mackerel from two to two and a half miles from the coast. There was not much fishing doing outside three miles.

Mr. Poirier stated that he could safely say, from an experience of forty years, that he had never caught mackerel more than two miles from the shore.

Mr. Sinnett, of Gaspé, stated that he had seen American skippers fish two miles from the shore, and inside a mile for mackerel. He had never seen them further than that; they generally fished, said he, in by the shore. Codfish, said he, is caught in his neighborhood at from one and a half to two miles from the shore.

Mr. Grenier stated that he had seen some fishing for mackerel beyond three miles, but the majority fished within the limit. More than two-thirds of the whole catch of Americans is taken inside three miles.

Mr. MacLeod stated that American fishing-vessels fished mostly within three miles, in the Bay of Chaleur. He himself had taken fish off Miscou and Shippegan within half a mile of the shore.

Mr. A. McKenzie stated that the American fleet took two thirds of their catch inshore, but he added that *some skippers got all their catch in deep water, perhaps one vessel in twenty.*

Mr. Angus Grant spoke of the trips he had made, all inshore or close inshore, from one-half mile to one and one-half miles.

Mr. Brown made a statement to the same effect.

Mr. MacKay spoke of the catches he had made inshore off Cape Breton, so close that he would sometimes be at anchor among the boats.

Captain Hardinge, R. N., stated that the best fishing was without a doubt within three miles; there could be no two opinions on that point. From his experience and observation on his fishing station, and from information he had obtained, he stated it as his opinion that the outside fishing for mackerel was of no account whatever. He had never received any information to the contrary.

Mr. Nicholson stated that with regard to the mackerel he had seen taken, all the catch was within three miles of the shore.

Mr. McGuire stated that most of the United States captains with whom he had conversed said that they caught their mackerel inshore.

Mr. Stapleton considered, as a result of his conversations with American fishermen, that three-fourths of the fish are caught inshore. In 1851 he had fished with fifty American vessels close inshore near Margaree and around Cheticamp, and all got full fares within a quarter of a mile of shore.

Mr. Baker stated that three-fourths of the mackerel taken by the Americans on the Gaspé coast and in the Bay of Chaleur was taken within the three-mile limit.

Mr. Jessop, of Gaspé, had seen the Americans fishing in his district right along the shore, and within one mile or two miles of the shore.

Mr. Coutoure stated that he had taken cod in an American vessel on the Cape Breton coast, from one mile to one and a half miles from the shore, and had made good catches of mackerel off P. E. Island within two miles of the shore.

Mr. William MacDonnel stated that all the fish he had taken at Margaree and Cheticamp were within three miles of the shore.

Mr. Paquet likewise spoke to large catches taken inshore. The fish, said he, taken near Margaree, Cheticamp, Broad Cove, and Limbo Cove, on the Cape Breton shore, are all caught within the limits. About P. E. Island, he said, the fish were taken within half a mile and two miles of the shore. On the New Brunswick shore within two and a half miles and three miles of the shore. In the Bay of Chaleur within a half mile and two and a half miles of the shore; but a few might be caught, he said, in the center of the bay. Along the south side of the river St. Lawrence fish were caught about one hundred and fifty yards from shore.

Mr. McIsaac stated that about two-thirds of the entire catch of mackerel was taken inshore.

Mr. Tierney spoke of large catches of mackerel taken from within a mile to a mile and a half of the shores of P. E. Island. He had fished for eleven years around the island, and had taken three-fourths of his catch within that distance.

Mr. McPhee that during the whole period of his fishing from 1862 to 1874 three-fourths of the fish he had caught had been taken within three miles.

Mr. John McDonald also spoke to the large quantities of fish taken during a period of nearly twenty years, the greater proportion of which were taken inside the three-mile limit.

Mr. John R. and Mr. John D. McDonald spoke to a similar experience.

Mr. Richardson, who had fished in American vessels from 1850 to 1874, stated that nine-tenths of the fish he had caught while in them had been taken within three miles of the shore.

Mr. Clement McIsaac stated that he had never caught 100 barrels of mackerel outside of three miles.

Mr. McInnis, who had fished in American vessels from 1858 to 1873, stated that two-thirds of the catches he had made were made within the three-mile limit.

Mr. Benjamin Campion, speaking from an experience of seven years' fishing, said that two-thirds of the catch had been taken within the three miles.

Many other witnesses testify to the extreme value of the inshore fisheries, but I think I have quoted enough for my purpose.

Let us now examine the testimony as the number of United States vessels frequenting Canadian waters:

Mr. Chivirie estimates the number of United States mackereling vessels in the gulf annually from 1848 to 1873 at about 400; since 1873 not over 200 or 300.

Mr. James R. McLean states that in 1858 the American fleet was 600 or 700 sail. Has counted 400 anchored under the south shore at East Point.

Mr. John Campion places the number from 1862 to 1866 at from 600 to 700.

Mr. Joseph Campbell estimates the number at from 450 to 500 in 1866 and 1867, and 400 in 1869, 1870, and 1871.

Mr. Poirier stated that he had seen 300 sail come into the waters between Cascumpeque and Minnigash; all fishing very close to shore.

Hon. Mr. Howlan, of Cascumpeque, says: "I have seen 340 United States vessels annually in my harbor; generally when there is a gale of wind."

Gregoire Grenier states that he has seen more than a hundred sail in a season, and more than twenty came to an anchor in front of his place.

Mr. FOSTER. Grenier's evidence all refers to what passed more than seven years ago.

Mr. THOMSON. Well, even so, the mackerel have not changed their habits.

Mr. FOSTER. I thought that they had.

Mr. THOMSON. Mr. McLeod says:

During the season of 1852 there were from 460 to 470 American vessels in the gulf—mackerelers. In 1854 from 200 to 300 American vessels were fishing in the Bay of Chaleurs. In 1855 from 200 to 300 in that quarter; probably 600 in the gulf. They told me that there were about 600 inside of Canso. In 1856 about the usual number. In 1857 the same, and up to 1862 about the same thing; also in '64, '65, and '66 the same. In 1867 there were from 300 to 400 inside the Bay Chaleurs. I have seen in 1867 250 lying at anchor in Port Daniel Bay, and as many more at Paspebiac on the same day, three-fourths Americans.

Mr. Philip Vibert, of Perce, Gaspé:

Of late years few United States vessels have visited our district for mackerel, but I have seen two hundred or three hundred in sight at one time. Not more than four or five years ago I counted 167 from my house. I have seen 300 in Bay Chaleurs, and steaming up to Quebec; have seen as many more on the way up. The average number from the Gt. of Canso upwards, I should put at not less than from 350 to 400, averaging 70 or 75 tons. Skippers come ashore, and are communicative; in fact, in many instances they are interested in other vessels, and they look after the catch, and can tell pretty well what it is. There is no difficulty in arriving at a general estimate of the take of boats.

A vessel may come into Georgetown with a broken spar, and the captain state that there are 75 vessels at the Magdalen Islands; another vessel would report 100 vessels in Bay Chaleurs. That is the only way in which you can get at the number of vessels in the bay.

Mr. George Harbour, of Sandy Beach, Gaspé: 300 is about the average; has seen as many as 50 at one time in the harbor. In 1872 there were at least 300 sail.

Mr. William A. Sinnet, of Griffin's Cove, Gaspé: Has been told by American captains that there were 300; sometimes as high as 500; did not see all that number at one time, but has counted as many as 60-odd sail at one time at Madeleine River.

The testimony of Angus Grant, Port Hawkesbury, will be found on page 180. He says:

From 1854 to 1856 average between 500 and 600 within the bay; has seen 400 sail in Port Hood at a time. The number increased from 1856 to 1869, and of larger tonnage. Since 1869 down, 600 to 700 sail. Quite a large fleet in 1873; about 500 in 1874; not so many in 1875; and 1876, perhaps not quite half of that. This year there is quite a large fleet coming; has seen them coming every day; lives on Strait of Canso, and can see them across; average number of United States cod-fishing fleet, from 200 to 300 sail.

I want to see whether he gives the proportion of the catches made inshore.

Mr. FOSTER. The bulk of your witnesses did so.

Mr. THOMSON. Yes, they did do so. Now, let me see what the Americans state in their own affidavits. My learned friend, Mr. Foster, assumes the catch taken inshore, for the purpose of argument, to be one-third, but I am going to show you that a number of his own affidavits—affidavits which were made by a number of his own men—give this catch *as about one-half*, interested as they were; some of our witnesses placed it at *nine-tenths*, and consequently I think that this Commission may fairly assume that *at least three fourths* of these catches are taken inshore.

I will take affidavit No. 201, contained in Appendix M.

Mr. FOSTER. Read the whole of it.

Mr. THOMSON. It runs as follows:

I, Roderick McDonald, of Low Point, Nova Scotia, do declare and say on oath as follows: I am living at Low Point, Inverness County, Nova Scotia; am over thirty years old; have been fishing for about 12 years, until three years ago, when I knocked off, because mackerel was scarce in the bay, and it did not pay; the mackerel-fishing has much fallen off during the last six or seven years; during these six or seven years the average yearly catch has not been over one-half of what it was eight or ten years ago; during some seasons they will be

much more off shore, at other seasons more inshore; during hot weather they will work more off shore; the best place for mackerel I have ever seen is on Bradley Bank, about twenty miles from North Cape, Prince Edward Island. Sometimes the Americans when mackerel is plenty will catch about two-thirds of their entire catch outside a line three miles from shore, but striking an average I think that during a season when mackerel is plenty, Americans will catch about one-half outside and the other half inside a line three miles from shore.

That is the only part of this affidavit which I need read at present.

Mr. FOSTER. Remember that Mr. McDonald is a Nova Scotian.

Mr. THOMSON. So is Pattilo a Nova Scotian.

Mr. FOSTER. McDonald lives there, and his affidavit was taken down there.

Mr. THOMSON. No matter where the affidavit is taken; the affidavit is here among those submitted by the American Government, and they must adopt it as they have put it in. Having obtained this statement, if they did not like to put it in, they need not have done so; but having put it in, they are bound by it.

Mr. FOSTER. That is a fair argument.

Mr. THOMSON. George Critchett, being duly sworn, says:

I am living at Middle Milford, Guysboro, County, Nova Scotia; I am 37 years old; from my 18th year until 4 years ago I have been out mackerel and codfishing mostly in American vessels; I left off fishing because the mackerel-fishing had been poor for several years and is still; whenever mackerel get to be plenty again I will be out fishing in vessels. I think that in former years, say from 10 years ago and longer, the average number of the American mackerel fleet was upwards of three hundred during the season; during the same period about 30 or 40 provincial vessels were in the Gulf of St. Lawrence; the number of American vessels above referred to is intended as the number in the Gulf of St. Lawrence; during the years previous to the last 10 years the average catch of mackerel was two trips for each vessel; during the last 6 or 7 years they have scarcely averaged one full cargo during the season. I think that mackerel go where they find the best and largest quantity of feed, and that when the wind is off shore it drives the small fish on which mackerel feed into deeper water, and the mackerel follow them, and whenever there is a big fleet off shore and heave over much bait, the mackerel will follow the fleet. During the years I was out fishing we did better outside a line 3 miles from shore than inside that line. On an average, I am of the opinion about from half to two-thirds of all mackerel caught by vessels in the gulf is caught outside of a line 3 miles from shore.

This deponent states that from one-half to two-thirds of the catches were made outside, and thus virtually admits that one-half were taken inside of the three-mile limit; this is about as favorable as our own testimony. We all know that the language which appears in most affidavits is the language of the man who draws them up; and this is true in nine instances out of ten; and undoubtedly the most that they could get out of this man was, that from one-half to two-thirds of the trips were made outside of the limit.

Mr. FOSTER. He says that during seven years past the vessels have averaged a full cargo during the season.

Mr. THOMSON. That makes no difference. I only want to see what the catch is. I am not at present discussing any other question.

Mr. FOSTER. He also states that until the present season only two or three vessels seined in the gulf.

Mr. THOMSON. That is another point; and I am only touching on one point at the present moment.

In affidavit No. 177, Appendix M, George Bunker says:

I, George Bunker, do solemnly declare that I am 31 years old; that I am living at Margate Bay, 24 miles from Halifax. I have been employed as a fisherman ever since I was a boy. For ten seasons I have been master of a fishing-vessel, fishing in the waters off the American coasts, and those of Nova Scotia, the Gulf of St. Lawrence, and Magdalen Island for cod and mackerel and herring. Codfish is not at all caught by the American fishermen within three miles from the shore. About half of the mackerel caught by the Americans is caught within three miles from shore.

Mr. FOSTER. He states that the catch of mackerel has largely fallen off during the last five or six years.

Mr. THOMSON. I cannot read all through this affidavit. They are very interesting reading, I dare say, but they take time.

In affidavit No. 192, Appendix M, I find that Philip Ryan says:

I, Philip Ryan, do solemnly declare that I am living at Middle Milford. I am 42 years of age. I think I was about 16 years of age when I first went out fishing in the Gulf of St. Lawrence in fishing-vessels. I have mostly been mackerel-fishing, although some seasons I have been cod-fishing in the bay. I left off going in fishing-vessels in 1872. The American fishermen don't dry their nets nor cure their fish on our coasts as far as I know. During the last eight or ten years mackerel-fishing has much fallen off, and during the last two years, as far as I can hear, mackerel-fishing has almost been a failure. Porgies and clams, as far as I know, is universally used in the bay as bait, although a few provincial vessels may occasionally use herring. Porgies and clams get all from the States as far as I am aware. I should think that about one-half of all the mackerel caught by vessels is caught outside a line 3 miles from shore.

Now, that is what he says. This, you see, is contained in the American testimony, and I say that it is conclusive against the case of the American Government. If they did not like these affidavits, they need not have put them in; but being in, I say that they are conclusive against the American Case. Besides, there is another matter which sets this question at rest. When Professor Hind was on the stand, he gave evidence which was not only very interesting, but, as I submit, conclusive, in view of this conflict of testimony. I have no doubt that it was so to the Commission, as certainly it was to us. He pointed out the scientific reasons why the fish, such as the cod, mackerel, halibut, and other fish of that description which are useful for food, inhabit the Bay of St. Lawrence. He says that these fish must necessarily live in water of the temperature of 37 or 40 degrees, or even of a temperature colder than that. He states that the great Arctic current which brings down from the north those immense icebergs, that make our climate so excessively cold and inhospitable—quite as “inhospitable” as many of the statutes of which my learned friends opposite have complained, also brings with these icebergs an antidote to the poison, in the shape of these fish of commerce. He says that this cold stream of water enters the Gulf of St. Lawrence, and the fish with it, and he points out that on the American coast there can of necessity be but very little fish of this description. He also points out—and I am not going to take up your time by referring to his evidence *in extenso* at all—that on three or four points on the American coast this great Arctic current impinges; that it remains there for a certain period of the year, and in the spring that the fish go with it, and remain on the shore there until this cold current of water recedes; but that the great “ocean river,” as it is called by Lieutenant Maury, the Gulf Stream, in its summer swing, approaches very near the American coast in some places, and touching it in other places, separates the surface current from the colder waters beneath, where these fish feed, and thus drives them from the American shore to colder regions. He further pointed out that even in the Gulf of St. Lawrence there are many places where these fish do not live; that zones of water of different temperatures are found there, some warmer and some colder than others; and that in the colder zones these fish live, whilst in the warmer zones they are unable to live.

You will recollect, no doubt, without my calling your attention particularly to the evidence, that a number of witnesses, American and British, testified that every now and then after having tolled the fish out from the inshore waters by throwing pogie bait they would suddenly disappear and be lost to them, and this is accounted for at once by Pro-

fessor Hind's evidence. The cause is this: that the fish then suddenly find themselves in a zone of warmer water in which they do not care to live, consequently they at once dive to a greater depth for the purpose of finding a zone of water more congenial to their habits of life, and by and by they find their way back to the shore. Another piece of evidence which Professor Hind gave struck me as being of great importance in this case. He pointed out one extraordinary phenomenon, which is observable in the great Bay of St. Lawrence. He says that the tides come in through the Straits of Belle Isle, and are divided by the Magdalen Islands into two portions. One portion runs away along the southern coast of Labrador, around the island of Anticosti, and up the northern bank of the river St. Lawrence, while the other portion passes down to Prince Edward Island and into the Strait of Northumberland. He says that, in consequence of the great distance which one portion of the tide has traversed while the other has traveled a shorter distance, the tide coming down from the northern coast meets the ebb tide about the middle of the island, and as a consequence of that there is really high water always found about the center of the island; and for that reason the island presents the peculiar appearance it does, having been hollowed out year after year by the action of these tides. The effect of that phenomenon is—and it is a phenomenon which I think Professor Hind stated only occurs in one or two other places in the habitable globe—that the whole of the fish food is carried inshore. The cold water which is necessary to the existence of these food-fish of commerce, such as the mackerel and the cod and the halibut, is carried inshore in the bight of Prince Edward Island; it is carried inshore along the southern coast of Labrador; it is carried inshore along the northern bank of the River St. Lawrence. All this he points out as being the necessary result of that tide. These fish are thus brought inshore, and they necessarily have to remain inshore in order to get the food which they most desire to feed upon.

I then put this question to Professor Hind: "If there should be two classes of witnesses here, each of them being a numerous class, and if one class swears that the catch of mackerel off the Prince Edward Island shore is very slight within the three-mile limit, and the other that this catch is very good within the three-mile limit, which would you say, in a scientific point of view, is telling the truth?" "Undoubtedly," he replied, "those who swear that a very great portion of the catch is taken there within the three-mile limit, because science says that this must be the case."

So you see that, supposing these witnesses came here and honestly told what they believed to be the truth, we have science stepping in and deciding the question, and moreover deciding the question entirely in favor of the British case. I shall therefore not trouble your excellency and your honors any further with the evidence upon that point, but pass to another branch of my argument. I believe that I stated yesterday in the course of my argument, that were we to assume the American account of the inshore catch of mackerel in the gulf to be correct, and fix it at one-third, that even then it would be quite impossible for them to prosecute successfully mackerel fishing in the gulf, without having access to the inshore fisheries. The business would not pay. They would eventually be compelled to abandon the Gulf of Saint Lawrence altogether, and in that case their market would not be supplied with mackerel.

The evidence shows that although an exceptional catch may be made in the bay without going near the shore at all, yet that no man in his senses would fit out vessels and send them into the bay unless he had

the privilege of following the schools of mackerel to the shore. There is a consensus of evidence on that point, I submit.

There was a statement made with reference to this fishery by Mr. Foster in his speech in connection with the evidence of George Mackenzie, which I think I can convince Mr. Foster was erroneous. No doubt he unwittingly misrepresented Mr. Mackenzie's statement.

Mr. FOSTER. What is it about?

Mr. THOMSON. You put in his mouth this language: it is quoted in your speech: "There has not been for seven years a good vessel mackerel fishery, and for the last two years it has been growing worse and worse." Now, he did not say anything of the kind; and I want to show that this is the case. I will read you what you said:

We have the statement of one of the Prince Edward Island witnesses, George Mackenzie, on page 132 of the British Evidence, who, after describing the gradual decrease of the American fishery by vessels, says, "There has not been for seven years a good vessel mackerel fishery, and for the last two years it has been growing worse and worse."

I wish to call the attention of the Commission to this matter to prevent their being misled by this statement. I do not, of course, charge any willful misstatement upon my learned friend, and consider that he has fallen into an unintentional error. Such language was never used by the witness in question; he never said "and for the last two years it has been growing worse and worse." If my learned friend will turn up the evidence and point such a statement out, I will withdraw this assertion; but though I have carefully gone through his evidence, I cannot find it.

Mr. FOSTER. Do you think that I am quoting that expression of opinion?

Mr. THOMSON. It is printed with quotation marks. You put forward this statement as having been made by him; and I undertake to say that this statement in that respect has never been made.

Mr. FOSTER. I am put down as having quoted that continuously. I may say that I did not correct that portion or a great portion of my speech.

Mr. THOMSON. You say that this statement is to be found on page 133.

Mr. FOSTER. The following portion of his examination is to be found on page 133:

Q. The fisheries failed pretty suddenly, did they not?—A. No. For a good many years they were failing.

Q. Which was the last good year?—A. We have not really had a good year during the last seven years.

I think you are right. I do not think that the exact words of the expression which is placed in quotation-marks are to be found there; but that statement contains the spirit of his evidence.

Mr. THOMSON. On page 128 he gives an opposite view.

Mr. FOSTER. I have just read from page 133. I must compare the statements, and see how they correspond. I should hate to be responsible for the accuracy of the printing.

Mr. THOMSON. I will not take up any more time about this matter, further than to say to the Commissioners that I have carefully gone through this evidence, and I cannot find it.

Mr. FOSTER. I say that the substance of this statement is there.

Mr. THOMSON. I differ from you on that point; but if you show that it is there I will withdraw what I have said about it.

Mr. FOSTER. I have already pointed out the substance of it on page 133.

Mr. THOMSON. And I say that the substance of the statements which appear on page 128 is exactly the opposite.

Mr. FOSTER. I dare say. Mr. Davies was then examining; but the statements from which I quoted were made in cross examination.

Mr. THOMSON. The following statement appears on page 44 of Mr. Foster's argument:

That would make 26,404 barrels caught in British territorial waters the first year of the Treaty. What were these mackerel worth? Mr. Hall tells you that he buys them, landed on shore, for \$3.75 a barrel.

This is the point to which I wish to call your attention. I cannot comprehend why Mr. Foster should assume the *value* of the privilege of taking these fish to be fixed by the cost of procuring them. It seems to me quite clear that the value of fish in the water is just their value in the market, *less* the cost of procuring them and transporting them thither.

However, taking his own method of valuation, this calculation is based on the statement which Mr. Hall makes, that he bought up these mackerel for \$3.75 a barrel. I have looked over Mr. Hall's evidence, but it is very difficult to say whether he meant that he paid \$3.75 a barrel by reason of having his men in his employ on particular terms, or that he got them at that price; but George McKenzie, who was also a witness, states on page 132 of his evidence that he paid \$6 a barrel for mackerel this year. Now, these two statements are entirely at variance, if Mr. Hall meant that such was the actual value of the fish when they were taken out of the water and transferred to him.

Mr. FOSTER. Mr. McKenzie testified as follows, on page 132:

Q. Then do you pay as high as \$6 a barrel for fresh fish?—A. Yes.

Q. How much did you pay last year?—A. We did not then pay higher than \$1.50.

Q. That would be \$4.50 a barrel?—A. Yes.

Q. And the year before last?—A. The price then was the same as it was last year.

Q. How much did you pay four years ago?—A. About the same, from \$1 to \$1.50.

Mr. THOMSON. As you will perceive, Mr. McKenzie states, as I said, that he has given \$6 a barrel for these fish this year, as against the price which Mr. Hall chose to say he only pays, or \$3.75 a barrel. Mr. McKenzie says that these fish cost him \$6 a barrel. Mr. Foster's calculation is based on the statement made by Mr. Hall, and this is here confronted with the evidence of Mr. McKenzie.

If your excellency and your honors believe that the evidence given on this point by Mr. McKenzie is correct, and you must judge between the two—the calculation of Mr. Foster is necessarily at fault.

Mr. FOSTER. Mr. McKenzie buys his fish by the hundred, and he estimates the number of fish contained in a barrel; that is the way in which he makes out the price as being \$6 a barrel.

Mr. THOMSON. Mr. Foster says, "That would make 26,404 barrels caught in British territorial waters that year," which was 1873. Now I take Mr. Foster's own figures in this matter. He further says, on page 44:

That was the first year of the treaty, and there were imported into the United States from the British Provinces 90,889 barrels, on which the duty of \$2 a barrel would amount to \$181,778. The value of the fish that our people caught is \$99,000, and the British fishermen gain in remission of duties nearly \$182,000.

This is the only year which Mr. Foster has selected.

Mr. FOSTER. I have taken the figures for every year since the Washington Treaty went into effect.

Mr. THOMSON. Even allowing, as the United States affidavits affirm, that the part of the gulf catch which is taken by them within the three-mile limit only amounts to one-half, we have 40,000 barrels. To this quantity you have to add the quantity imported from Canada, which is nearly all taken inshore, amounting to 91,000 barrels, the total is 131,000 barrels, and consequently it appears from these figures that there were taken from British territorial waters about 45 per cent. of the entire consumption of the United States. And if the proportion of the voyages made in the gulf and taken within the three-mile limit be two-thirds, then these figures are increased to 150,000, or to over 50 per cent., and this is the result which follows from Mr. Foster's own figures.

Mr. FOSTER. That is—you add the catch of your own people to the catch of our people, in the gulf, and say that is such a percentage of the total amount that went into the United States market. I dare say it may be so.

Mr. THOMSON. So, as United States fishermen obtained in the gulf that year 80,000 barrels, and there were imported into their market from the British Provinces about 91,000 barrels, that makes a total catch in the Gulf of Saint Lawrence of 171,000 barrels; that is to say, the catch on the United States coast was 130,339 barrels, or 43 per cent., and the catch in the Gulf of Saint Lawrence 171,000 barrels, or 57 per cent.; this makes a total of 301,339 barrels. Now these very figures themselves are about the very best evidence that can be advanced as to the relative value of these two fisheries.

With reference to the value which the United States themselves put on our fisheries, I want to cite some of their own figures; and the value which the Americans themselves have set on these fisheries is very conclusively shown by admissions of their own public men.

Sir ALEXANDER GALT. Before you take up that point, Mr. Thomson, will you be kind enough to tell me what the proportion of the catch you claim as taken inshore, bore to the whole American consumption, 50 per cent. you have made it, and I think it was 33 per cent.

Mr. THOMSON. I say that if the proportion of the voyages, taken inshore, within the three-mile limit be two-thirds, there were taken in British territorial waters about 50 per cent.

Sir ALEXANDER GALT. Fifty per cent.

Mr. THOMSON. Yes. I will read the proposition again: Now; allowing as the United States affidavits affirm, that one-half of the catch was taken inshore, viz, 40,000 barrels, add importations from Canada, 91,000 barrels, which makes 131,000 barrels; and therefore there have been taken in British territorial waters 45 per cent. of the entire consumption of the United States. That is what I said.

Mr. FOSTER. That is assuming the whole of your catch to have been taken inshore?

Mr. THOMSON. Yes; and if the portion vouched for as taken from within the three-mile limit be two thirds, then these figures would make 152,000, or over fifty per cent. of that consumption.

Mr. FOSTER. I hope that the Commission will not charge us for the privilege possessed by British fishermen of catching mackerel.

Mr. DANA. Some of the British catch is taken eight miles from land.

Mr. THOMSON. In order to show the value, as stated by Americans themselves, of these fisheries, I will quote the language of Mr. Secretary

Seward, which is quoted on page 16 of the British reply to the United States Answer. Mr. Secretary Seward said :

Will the Senate please to notice that the principal fisheries in the waters to which these limitations apply are the mackerel and the herring fisheries, and that these are what are called "shoal fisheries," that is to say, the best fishing for mackerel and herring is within three miles of the shore. Therefore, by that renunciation, the United States renounced the best mackerel and herring fisheries. Senators, please to notice also, that the privilege of resort to the shore constantly, to cure and dry fish, is very important. Fish can be cured sooner, and the sooner cured the better they are, and the better is the market price. This circumstance has given to the colonies a great advantage in this trade. That stimulated their desire to abridge the American fishing as much as possible; and, indeed, they seek naturally enough to procure our exclusion altogether from the fishing-grounds.

Mr. FOSTER. What year was that?

Mr. THOMSON. 1852. Touching the mode in which the Treaty of 1818, as regards large bays, shall be construed, Mr. Secretary Seward said this:

While that question is kept up, the American fisheries, which were once in a most prosperous condition, are comparatively stationary or declining, although supported by large bounties. At the same time, the provincial fisheries are gaining in the quantity of fish exported to this country, and largely gaining in their exportations abroad.

Our fishermen want all that our own construction of the convention gives them, and want and must have *more*—they want and must have the privilege of fishing within the three inhibited miles, and of curing fish on the shore.

Certainly the circumstances which induced Mr. Secretary Seward to use that language in 1852, have not since changed in such a manner as to authorize the United States or any of her public men to use different language to-day.

Senator Hamlin, after describing the magnitude and importance of the American fishery as the greatest fountain of their commercial prosperity and naval power, declared that if the American fishermen were kept out of our inshore water, an immense amount of property thus invested would become useless, and the fishermen would be left in want and beggary, or imprisoned in foreign jails.

And in the House of Representatives, Mr. Scudder, of Massachusetts, referring to this subject, said :

These fish are taken in the waters nearer the coast than the codfish are. A considerable proportion, from one-third to one-half, are taken on the coast and in the bays and gulfs of the British Provinces.

Now, upon that question, not only as to the value of our fisheries, but also as to the proportion of the catch which is there taken, this seems to be very strong testimony coming from an American statesman. He continues:

The inhabitants of the Provinces take many of them in boats and with seines. The boat and seine fishery is the more successful and profitable, and would be pursued by our fishermen, were it not for the stipulations of the Convention of 1818, betwixt the United States and Great Britain, by which it is contended that all the fisheries within three miles of the coast, with few unimportant exceptions, are secured to the Provinces alone.

Mr. Tuck, of New Hampshire, said :

This shore fishery which we have renounced is of great value, and extremely important to American fishermen. " " From the first of September to the close of the season, the mackerel run near the shore, and it is next to impossible for our vessels to obtain fares without taking fish within the prohibited limits. The truth is, our fishermen need absolutely, and must have, the thousands of miles of shore fishery which have been renounced, or they must always do an uncertain business.

He may well call them thousands of miles, because we have shown by evidence here that they amount to no less than 11,900 square miles.

He further says :

If our mackerel men are prohibited from going within three miles of the shore, and are forcibly kept away (and nothing but force will do it), then they may as well give up their business first as last. It will be always uncertain.

This is a significant observation. We find through all these speeches allusions made to the trouble which the course that had been adopted under the provisions of the Treaty of 1818 toward the body of American fishermen coming on our shores to fish would continue to bring upon the two countries, and that war was imminent. Why was this? Surely, if the fishery on their coast is so valuable, they can stay there, and if the fisheries on our coast are so valueless, they can stay away! We have not asked them to come into our waters. And it does appear to me that it comes with extremely bad grace from these people to make complaints that harsh measures are used to keep them out of them. What right have they at all? They have renounced all right. They have solemnly, as far back as 1818, renounced any right to enter these waters, and that convention is in full force still, save as temporarily affected by the Washington Treaty. We have no right except temporarily, under the same treaty, to enter their waters. But, according to the argument of Mr. Dana, we have the right to enter them, because he says that there are no territorial waters belonging to any country. In that sense you cannot be prevented from fishing in any waters, if I understand his proposition correctly; and we therefore have the right to go there and fish. But what do the United States say? They hold to no such construction of the law of nations. So far from that being the case, their own shore-fisheries cannot be touched by foreign fishermen, and even under the treaty, by virtue of which your excellency and your honors are now sitting, our fishermen have only the right to fish on their shores from the 39th parallel of north latitude northward; not one step, not one mile to the southward of that parallel can they go. The strongest possible proclamation of sovereignty which one country can possibly hold out to another is here held out by the United States with regard to their territorial waters to England and to the world; and yet, for the purpose of getting into our waters, we are told that, under the law of nations, American fishermen can come in and demand complete freedom of access to them; but when it comes to their own waters that doctrine will not do at all. This is the *reductio ad absurdum*, with a vengeance! Who ever heard anything like it? Here is a solemn agreement which has been entered into between two countries, and yet we have complaints—complaint after complaint—regarding the means which our men have exercised in order to keep these people from fishing in our waters, from which they are inhibited by a solemn treaty. Why, it does not seem to me to be fair—not to use any stronger term than that, and using the mildest possible term to characterize it—to adopt this tone. All this seems to be most unfair; and here Mr. Tuck states that nothing but force will keep the American fishermen out of our waters. But there is a strong reason for the employment of this language. What is it? Why, our fisheries are all valuable, while theirs are practically useless; “and the truth is,” says Mr. Tuck, “our fishermen absolutely must have access to our thousand miles of shore fisheries.”

He states :

They (the American fishermen) want the shore fisheries; they want the right to erect and maintain structures on shore to cure codfish as soon as taken, thus saving cost, and making better fish for market; and believing their wishes to be easy of accomplishment, they will not consent to the endurance of former restrictions, the annoyances and trouble which they have so long felt.

Now, this is very extraordinary language for any man to use. The admission is clear, and also the conclusion which Mr. Tuck draws from it. It is this: they want our inshore fisheries, free from those restrictions the effect of which the United States fishermen have so long felt; and this is simply a declaration made on the part of American citizens that a solemn agreement entered into between their country and Great Britain is an agreement which they do not choose to keep. But of course such views cannot be tolerated in any court.

Now, let us see what are the views as to the value of our fisheries entertained by the persons who live in Boston, the very center of the fish trade. I will call your attention for a few moments to the first annual report of the Boston Board of Trade, of 1855, and just after the Reciprocity Treaty had come in force. It was presented at the annual meeting which was held on the 17th January, 1855. I will only read an extract, but the whole book may go in, if necessary, and be considered as read, if you please. This is the same extract which I read when I cross-examined Mr. Wonson:

But in connection with the Reciprocity Treaty, it is to the importance of the fisheries that your directors wish at this time particularly to call your attention: seventy per cent. of the tonnage employed in the whale, cod, and mackerel fisheries in the United States belongs to Massachusetts, and Boston is the business center.

By colonial construction of the Convention between the United States and Great Britain of 1718, we were excluded from not less than four thousand miles of fishing-ground. The valuable mackerel fishery is situated between the shore and a line drawn from the St. Croix River southeast to Seal Island, and extending along the Atlantic coast of Nova Scotia, about three miles from the coast, around Cape Breton, outside Prince Edward Island, across the entrance to the Bay of Chaleur; thence outside the island of Anticosti to Mt. Joly on the Labrador coast, where the right of shore-fishing commences. The coasts within these limits following their several indentations are not less than four thousand miles in extent, all excellent fishing-grounds. Before the mackerel fishery began to be closely watched and protected, our vessels actually swarmed on the fishing-ground within the spaces inclosed by the line mentioned.

Each of these vessels made two or three full fares in the season, and some thousands of valuable cargoes were landed every year in the United States, adding largely to our wealth and prosperity.

A sad contrast has since existed. From Gloucester only one hundred and fifty-six vessels were sent to the Bay of St. Lawrence in 1853. Of these, not more than one in ten made the second trip, and even they did not get full fares the first trip, but went a second time in the hope of doing better. The principal persons engaged in the business in Gloucester estimated that the loss in 1853 amounted to an average of one thousand dollars on each vessel, without counting that incurred from detention, delays, and damages from being driven out of the harbor and from waste of time by crews. It was agreed by all parties that if their vessels could have had free access to the fishing-grounds as formerly, the difference to that district alone would have been at least four hundred thousand dollars.

In 1853, there were forty-six vessels belonging to Beverly; thirteen of them went to the bay in 1852, but, owing to the restrictions, their voyages were wholly unsuccessful, and none of them went in 1853.

At Salem, only two mackerel licenses were granted in 1853, and at Marblehead only six.

At Newburyport there are ninety fishing-vessels: seventy of these went to the bay for mackerel in 1853, but almost all of them, it is said, made ruinous voyages. At Boston only a dozen licenses were granted for this fishery in 1853, and very few of the one hundred vessels belonging to the towns of Dennis and Harwich, on Cape Cod—two-thirds of which are engaged in the mackerel fishery—went to the bay for mackerel last year, because of the ill-success attending the operations of the year previous. One of their vessels of one hundred tons burden, manned by sixteen men, was six weeks in the bay in 1853, and returned with only one barrel of mackerel.

Unless some change had taken place beneficial to the interests of our hardy fishermen, the northern fisheries would have been wholly ruined, and in all probability have entirely ceased except on a very limited scale on our own shores. The one hundred and fifty thousand tons of shipping employed in these fisheries would have been obliged to seek employment elsewhere, and the product of the fisheries themselves, amounting to three or four million dollars annually, would have been lost to us. The present treaty opens to us again all these valuable fisheries, and our thanks are due to the distinguished statesmen who have labored in bringing it to a successful termination; and your directors are most happy to make mention of the services of Israel D. Andrews, esq.—a gentleman whom we hope to have the

pleasure of meeting to-day—who has worked most assiduously for the last four years in collecting and furnishing in his valuable reports almost all the information possessed on the subject, and without whose exertions, it is hardly too much to say, the treaty would never have been made.

Is not this conclusive? These vessels, I suppose, kept away from the three-mile limit, and they made ruinous voyages; and yet we have had witness after witness declaring here on the American side that the best fishing was outside of that limit, and that there was no fishing inside at all.

This is the opinion of the Boston Board of Trade on this subject. In fact, we hold the key in our hands which locks and unlocks the North American fisheries of both countries; and of course it is necessary for us to take care that we are not deprived of our rights without receiving proper and adequate consideration.

Your excellency and your honors will recollect that the Reciprocity Treaty was not put an end to by us; but it was put an end to by the solemn act of the United States against the desire of Great Britain, and against the wishes of the Dominion of Canada.

On page 391 of the American evidence, the following question was put to Major Low, the then witness on the stand:

Looking up the files of the Cape Ann Advertiser, with reference to the Centennial, I notice a statement relative to your fisheries, and to the effect their prosecution has had on Gloucester, to which I would like to call your attention, to see whether you agree with it or not.

Of course it has been shown here before the Commission, and it is well known to everybody that is acquainted with the fisheries, that this paper, the Cape Ann Advertiser, is the great organ of the fishing interests of New England.

This article runs as follows:

In 1841 the fishery business of Gloucester had reached its lowest ebb. Only about 7,000 barrels of mackerel were packed that year, and the whole product of the fisheries of the port was only about \$300,000. In 1851 the business began to revive, the George's and Bay Chaleur fishery began to be developed, and from that time to this year, 1875, has been steadily increasing, until at the present time Gloucester's tonnage is 10,000 tons more than Salem, Newburyport, Beverly, and Marblehead united. Nearly 400 fishing-schooners are owned at and fitted from the port of Gloucester, by 39 firms, and the annual sales of fish are said to be between \$3,000,000 and \$4,000,000, all distributed from here by Gloucester houses.

THE COMMERCIAL WHARVES.

The wharves once covered with molasses and sugar hogsheds are now covered with fish-flakes, and the odors of the "sweets of the tropics" have given place to "the ancient and fish-like smells" of oil and dried cod; the few sailors of the commercial marine have been succeeded by 5,000 fishermen drawn from all the maritime quarters of the globe; and the wharves that were the wonders of our boyhood days are actually swallowed up in the splendid and capacious piers of the present day, so much have they been lengthened and widened.

THE SALT TRADE.

For many years after the decline of the Surinam trade hardly a large vessel was ever seen at Gloucester, and many persons thought that never more would a majestic ship be seen entering this capacious and splendid seaport. But never in the palmiest days of Gloucester's foreign trade were such immense vessels seen as at the present day. Ships of 1,500 tons (as big as six William and Henrys) sailed into Gloucester Harbor from Liverpool and Cadiz, and came into the wharves without breaking bulk, and also lay afloat at low water. More than forty ships, barks, brigs, and schooners of from 400 to 1,400 tons, laden with salt alone, have discharged at this port the present year, and also the same number last year. The old, venerable port never presented such a forest of masts as now can be seen: sometimes six ships and barks at a time, besides innumerable schooners.

THE CITY OF GLOUCESTER OF 1875 AND THE TOWN OF 1825.

What a contrast is presented, as a ship enters the harbor now, with what was presented in 1825! The little rusty, weather-beaten village, with two "meeting-houses" and a few dwell-

ings and wharves gathered around them: two or three thousand people with \$500,000 property, was all that Gloucester then was, as near as we can ascertain. Now the central wards, without suburban districts, contain 14,000 people, with \$9,000,000 valuation.

The article continues in this fashion:

Five banks, with nearly \$2,000,000 in them (including savings): and this increase has arisen, not from foreign commerce, but from the once despised and insignificant fisheries.

It will be seen by a review of the history of Gloucester that a foreign commerce did not build the town up in population or wealth: that from 1825 to 1850 its increase had been very small; but from 1850 to 1875 it has grown from 8,000 to 17,000 inhabitants, and its valuation from \$2,000,000 to \$9,000,000! It is the fisheries that have mainly caused this great change: it is the success of that branch of industry that has lined Gloucester harbor with wharves, warehouses, and packing establishments, from the Fort to "Oakes' Cove." It is the fisheries that have built up Rocky Neck and Eastern Point, and caused ward 3 (Gravel Hill and Prospect street) to show nearly all the gain in population from 1870 to 1875.

This is the testimony of the organ of the Gloucester fishermen. I might consume a great deal of your time in similar quotations. I turn your attention now to this book which was quoted by my learned friends on the other side, this book of Mr. Adams upon "The Fisheries and the Mississippi." At page 204 this language is used under the head of fishing liberties and their values:

Of these ten thousand men, and of their wives and children, the cod fisheries, if I may be allowed the expression, were the daily bread—their property—their subsistence. To how many thousands more were the labors and the dangers of their lives subservient? Their game was not only food and raiment to themselves, but to millions of other human beings.

There is something in the very occupation of fishermen, not only beneficent in itself but noble and exalted in the qualities of which it requires the habitual exercise. In common with the cultivators of the soil, their labors contribute to the subsistence of mankind, and they have the merit of continual exposure to danger, superadded to that of unceasing toil. Industry, frugality, patience, perseverance, fortitude, intrepidity, souls inured to perpetual conflict with the elements, and bodies steelled with unremitting action, ever grappling with danger, and familiar with death—these are the properties to which the fisherman of the ocean is formed by the daily labors of his life. These are the properties for which He who knew what was in man, the Saviour of mankind, sought His first and found His most faithful, ardent, and undaunted disciples among the fishermen of His country. In the deadliest rancors of national wars, the examples of latter ages have been frequent of exempting, by the common consent of the most exasperated enemies, fishermen from the operation of hostilities. In our treaties with Prussia, they are expressly included among the classes of men "*whose occupations are for the common subsistence and benefit of mankind*;" with a stipulation that, in the event of war between the parties, they shall be allowed to continue their employment without molestation.

Nor is their devotion to their country less conspicuous than their usefulness to their kind. While the huntsman of the ocean, far from his native land, from his family, and his fireside, pursues, at the constant hazard of life, his game upon the bosom of the deep, the desire of his heart is, by the nature of his situation, ever intently turned toward his home, his children, and his country. To be lost to them gives their keenest edge to his fears; to return with the fruits of his labors to them is the object of all his hopes. By no men upon earth have these qualities and dispositions been more constantly exemplified than by the fishermen of New England. From the proceeds of their "perilous and hardy industry," the value of three millions of dollars a year, for five years preceding 1808, was added to the exports of the United States. This was so much of national wealth created by the fishery. With what branch of the whole body of our commerce was this interest unconnected? Into what artery or vein of our political body did it not circulate wholesome blood? To what sinew of our national arm did it not impart firmness and energy? We are told that they were "*annually decreasing in number*": Yes! they had lost their occupation by the war; and where were they during the war? They were upon the ocean and upon the lakes, fighting the battles of their country. Turn back to the records of your revolution—ask Samuel Tucker, himself one of the number: a living example of the character common to them all, what were the fishermen of New England, in the tug of war for Independence? Appeal to the heroes of all our naval wars, ask the vanquishers of Algiers and Tripoli, ask the redeemers of your citizens from the chains of servitude, and of your nation from the humiliation of annual tribute to the barbarians of Africa, call on the champions of our last struggles with Britain, ask Hull and Bainbridge, ask Stewart, Porter, and Macdonough, what proportion of New England fishermen were the companions of their victories, and sealed the proudest of our victories with their blood; and then listen if you can, to be told that the

unoffending citizens of the West were not at all benefited by the fishing privilege, and that the few fishermen in a remote quarter were entirely exempt from the danger.

But we are told also that "by far the greatest part of the fish taken by our fishermen before the present war was caught in the open sea, or upon our own coasts, and cured on our own shores." This assertion is, like the rest, erroneous.

The shore fishery is carried on in vessels of less than twenty tons burthen, the proportion of which, as appears by Seybert's Statistical Annals, is about one-seventh of the whole. With regard to the comparative value of the Bank and Labrador fisheries, I subjoin hereto information collected from several persons acquainted with them, as their statements will show in their minutest details.

I know of no language that can more forcibly bring home to the Commission the value of this fishery. If the eloquent language that I have quoted contained a tittle of the truth, then this fishing is the nursery of the American navalmarine. The future maritime defenders of their country are to be found amongst the bold and fearless men who prosecute these fisheries, and amongst them alone. From the fishing-vessels of America sprang these maritime defenders of her flag, who maintained with undaunted bravery the honor of their country in the last war with England, and from the same source must be drawn those who doubtless would do so again if unfortunately another war should arise between the two countries. Yet, when we speak of such a fishery as this, we are calmly told by Mr. Foster you must not look at these advantages at all, but like business men, you must, pencil in hand, put down the figures, and make a calculation of the values as though it were a petty matter of bargain and sale between man and man. In the name of our common humanity, in the name of the common honor of England and America, and of the Dominion for which I am counsel this day, I repudiate such a construction being placed upon this treaty.

There are some other passages in this book to which I may call your attention. At page 210 this language is used :

These fisheries, as most advantageously secured to the United States by the Treaty of 1753, and made at the time, I have always understood, a *sine qua non* of that treaty, offer an invaluable fund of wealth and power to our country; one which has never been duly attended to, nor justly appreciated, but which, if continued and improved, was destined to grow with our growth and strengthen with our strength.

The prosecution of these coast and bay fisheries, although it had already become extremely advantageous, had undoubtedly reached, in a very small degree, the extension and importance it was capable of attaining. The unsettled state of the commercial world for the past twenty years, and the more alluring objects of mercantile enterprise which such a state of things evolved, seemed, in point of immediate consideration and attention, to throw these fisheries into the background; but still, until first checked by the system of embargoes and restrictions, and finally stopped by a declaration of war, they were silently, but rapidly, progressing, and reaching an importance which, though generally unknown to our country and its statesmen, had become highly alarming to the governments and more wealthy merchants of the provinces, and was beginning to attract the attention and jealousy of the cabinet of Great Britain toward them.

The shores, the creeks, the inlets of the Bay of Fundy, the Bay of Chaleurs, and the Gulf of St. Lawrence, the Straits of Bellisle, and the Coast of Labrador, appear to have been designed by the God of Nature as the great ovarium of fish; the inexhaustible repository of this species of food, not only for the supply of the American, but also of the European continent. At the proper season, to catch them in endless abundance, little more effort is needed than to bait the hook and pull the line, and occasionally even this is not necessary. In clear weather, near the shores, myriads are visible, and the strand is at times almost literally paved with them.

All this was gradually making itself known to the enterprise and vigilance of the New England fishermen, and for a few seasons prior to the year 1808, the resort to this employment had become an object of attention, from the Thames at New London, to the Schoodic; and boats and vessels of a small as well as a larger size were flocking to it from all the intermediate parts of the United States. In the fishing season, at the best places for catching the cod, the New England fishermen, I am told, on a Sunday, swarmed like flies upon the shores, and that in some of these years, it probably would not make an overestimate to rate the number of vessels employed in this fishery belonging to the United States at from 1,500 to 2,000 sail, reckoning a vessel for each trip or voyage, and including the larger boat-fish-

ery; and the number, if the fisheries were continued, would shortly be still further and very greatly extended.

The nursery for seamen, the consequent increase of power, the mine of wealth, the accumulation of capital (for it has been justly observed that he who draws a codfish from the sea gives a piece of silver to his country), the effect upon the trade and custom of Great Britain, and the corresponding advantages to the United States, of which the enlargement of such an intercourse was susceptible (for the stock of fish appears inexhaustible), you are much better able to conceive them than I am to describe: but I with pleasure point them anew for your consideration, as, on many accounts, presenting one of the most interesting public objects to which it can be directed.

At page 199 the following language is used:

Be the opinion of Mr. Russell what it may, the portion of the fisheries to which we are entitled even within the British territorial jurisdiction, is of great importance to this Union. To New England it is among the most valuable of earthly possessions.

Now, in the course of his argument, Mr. Foster put the question as if it turned distinctly upon who paid the duty, the producer or the consumer. Whether that be absolutely necessary for the purpose of determining this case in favor of Great Britain or not, is not for me to say. That is a question of political economy with which I am neither desirous, nor probably capable of dealing. But I am not afraid to let our case turn upon that question. I think I shall show you, by evidence of witnesses and by figures, that in every instance in this case the duty is paid by the consumer. I am speaking more particularly of the mackerel. I shall conclusively show that in the year when the Reciprocity Treaty was in force, the price of mackerel fell off; that immediately after the Reciprocity Treaty terminated, the price of mackerel rose in the market. I shall show that immediately after that state of affairs was terminated by the Treaty of Washington the price of mackerel again fell off, and we say that these facts establish at once that the consumer must have paid the duty. Our witnesses have, one and all, or nearly all, testified that in their judgment the consumer paid the duty. In answer to the question put by the learned counsel associated with me and myself, "Would you rather have the Americans excluded from your fisheries and pay the duty?" they have said "Yes." While I am upon this subject I will remark, although I will not have time to turn attention to the document itself, that Mr. Foster, or at all events one of the learned counsel for the United States, read in his speech a communication from Hon. Peter Mitchell, then minister of marine and fisheries, for the purpose of showing that the repeal of the Reciprocity Treaty would be ruinous to our fishermen. Now, upon reference to that communication you will find that what he did put forward was this: that if the Americans would come in without either paying a license-fee or giving any other compensation at all for our fisheries, and if they fished in our territorial waters where the fish were to be taken, side by side with our own fishermen, and then carried their catch into the American market free of duty, while our fishermen, fishing on the same terms and with no better appliances, were met there with a duty of \$2 a barrel on mackerel and \$1 on herring, it would necessarily be ruinous. And that proposition no doubt has a vast deal of truth in it. It is impossible, I assume, for two persons to fish upon equal terms in the same waters, and then when they go into the American market for one to be met by a duty while the other has no such duty to pay, without it operating to the disadvantage of the former. But that is a totally different case from the one we have to deal with.

Now I shall show you, as I have said, that during the period of the Reciprocity Treaty the prices were low, and that the moment that treaty was repealed or abrogated by notice from the American Government

the prices rose; that the moment that state of affairs was terminated by the Washington Treaty the prices fell again, and we say that is conclusive proof that the Americans have to pay the duty. There has been a *consensus* of testimony, American and British, upon that point.

Let us see what the American witnesses say, for I affirm that on both sides the witnesses agree in the statement that the consumers pay the duty. It is true that American witnesses who are themselves fishermen, or those who speak the opinion of fishermen, say that they would prefer the old state of things. Why? Because under that state of things they could steal into our harbors and carry off our fish for nothing, and then their British competitor was met in the market with a duty of \$2 a barrel, while they were free. But I apprehend the consumer did not want that state of affairs. These witnesses admitted that it made the fish dearer, whenever the question was put to them. I have cut out the evidence referring to this point, and I will just read it:

AMERICAN WITNESSES ON DUTIES.

Page 75.—F. Freeman:

Q. If you were allowed to make your choice, which would you take—exclusion from the British inshore fisheries and the imposition of a duty on colonial-caught fish, or the privilege of fishing inshore in British waters and no duty?—A. I would rather have the duty.

Q. You say you would rather have the duty paid; you think you would make more money; you are speaking as a fisherman?—A. Yes.

Q. You would have a better market for your fish? Under the present system the consumer gets his fish cheaper, does he not? *You would make the consumer pay that \$2 duty? You would sell your fish \$2 higher?*—A. Yes.

Mr. TRESCOT. That is political economy.

Mr. THOMSON. Why did you ask him?

Mr. TRESCOT. I asked him simply which system he would prefer.

Mr. THOMPSON. I am asking him why.

Q. And you say the reason is that you would get so much money in your pocket at the expense of the people that eat fish. Is not that the whole story?—A. Certainly.

Page 93.—N. Freeman:

Q. Were you among those who opposed or favored the continuance of the Reciprocity Treaty?—A. I was among those that opposed it.

Q. There were some that opposed it, or rather required the duty to be maintained upon codfish?—A. I was one who preferred to have the duty retained upon codfish.

Q. Upon codfish?—A. Yes.

Q. Your people wished in fact to keep the duty on codfish?—A. Yes.

Q. Why? Be kind enough to state why.—A. Because we felt it would be better for us as a cod-fishing town to exclude as far as possible the fish from the provinces. *It would give us a better chance, as we supposed, to dispose of our fish at higher rates.*

Q. And the effect of the treaty you considered would be to reduce the price?—A. We supposed that the effect of the treaty would be to bring in codfish from these provinces into our port, and of course necessarily it was presumed that it would reduce the price of fish.

Q. I suppose the mackerel fisheries have the same object, to keep up the price of fish?—A. I presume they have.

Q. Then, of course, you think your views are correct? You think now, I presume, that your opinion was correct?—A. Yes.

Q. And you still continue to think that is correct, and that the effect of the provisions of the treaty is to bring down the price of fish?—A. Yes; I think that is the tendency. I am not aware whether it has brought the prices down.

Q. I mean to say you have not changed your opinion?—A. No.

Q. Of course there might be other causes operating, but that is the general tendency of the treaty?—A. Yes.

Q. To make the fish cheaper for the consumer?—A. We have so regarded it. Well, perhaps it would have that tendency. We have thought that it would.

Q. That is precisely what your opinion was?—A. Yes.

Q. You have not altered your opinion?—A. No.

Q. Your opinion, if you will allow me to put it in my words, is that it makes fish cheaper to the consumers in the United States?—A. My opinion is that it will have that tendency.

Page 107.—Graham :

Q. You say that you would prefer a duty on Canadian fish entering American market to the privilege of fishing within three miles of the shore in the bay ?—A. Yes ; I should if I went fishing.

Q. Why ?—A. Because I do not think that the privilege amounts to as much as the duties to us.

Q. Why do you want the duty kept on ?—A. Because, in the first place, we would get more for our fish in the United States.

Q. And when the duty is abolished the price naturally comes down ?—A. The fish might then be a little cheaper.

Q. That is your opinion ?—A. I do not think that the price would come down much.

Q. Then why do you want the duty kept on ? Do you not think that you gave a rather hasty answer ? You say you would prefer the duty to the privilege of fishing in the Bay of St. Lawrence, within the limits ?—A. Yes.

Q. Why ? I understood you to say it was because this would keep the price up ?—A. That was a little erroneous, I think. Let me think the matter over.

Q. Why would you rather prefer the duty to the privilege mentioned ?—A. Because that would keep the price up, and we would then get more for our fish. I thought you had me a little.

Q. I merely want your statement on the point ?—A. That is my candid opinion.

Q. You now speak as a fisherman ?—A. Yes ; if I was fishing that would be my idea.

Q. All classes of men have selfish motives ?—A. I want to get all I can for what I have to sell, and to buy as cheaply as possible.

Q. And in order to get a high price for your fish, you want the duties on ?—A. Yes.

Page 124.—Friend :

Q. You thought you would get more mackerel and get a better price for them ?—A. If we had a duty on mackerel we would get a better price, and would get more mackerel if we fished off shore.

Page 130.—Orne :

Q. You say you would prefer a duty of \$2 a barrel to the liberty of fishing within the limits of the bay ?—A. I do.

Q. Why ?—A. Because I think the mackerel which I take to market would then bring more.

Q. Would the price be then higher by \$2 ?—A. I could not say.

Q. What is your belief ?—A. *I believe that would be the case.*

Q. Consumers might appreciate the matter differently ?—A. I speak as a fisherman.

Page 147.—Leighton :

Q. In regard to mackerel, leaving herring out, would you prefer a duty on mackerel ?—A. Yes.

Q. You speak as a fisherman ?—A. Yes.

Q. Why would you prefer a duty on mackerel ?—A. *Our mackerel would fetch that much more a barrel. We lose that, you know.*

Q. By the duty coming off ?—A. Yes ; *the fishermen lose it. The government does not lose it.*

Q. *And the people who eat the fish gain it ?*—A. Yes.

Q. And if you were to speak to a man whose business was consuming mackerel, you would get an opinion adverse to a duty ?—A. Yes.

Q. You would not object, I suppose, to run the duty up a little higher ; how would that suit the fishermen ?—A. I think that is about right.

Page 160.—Riggs :

Q. You say you would prefer a duty being imposed on our mackerel to the right to fish inshore in British waters ?—A. I should.

Q. Why do you want a duty on ?—A. It is no benefit to us to fish inshore, that I ever saw.

Q. Why do you want it on ?—A. Well, we would have a better market for our fish.

Q. Would you get a higher price for them ?—A. We should ; yes.

Q. And therefore you are speaking as a fisherman ; as such you would like to get the highest price you could for your fish ?—A. Certainly.

Q. You think that the imposition of a duty would give you a better market ?—Yes ; if Canadians had to pay the duty it is likely they would not fetch the fish in.

Q. What would be the result of that ?—A. We would have a higher price and a quicker market.

Q. You would have a higher price ?—A. I do not know that this would be the case or anything about it, but it would be a quicker market for us.

Page 187.—Smith:

Q. You speak as a fisherman; you want to get the most you can. How much do you think you would get?—A. As much as the duty.

Q. I don't know but you are right. Perhaps you would like to have a little more on. Supposing a duty of \$3 was put on, I suppose it would still have the effect of raising the price of fish?—A. I think it would kill us. No, let me see. I don't know anything about that. I think by keeping the English fish out our fish would bring a better price.

Page 201.—Procter:

Q. Speaking as a fisherman, would you prefer to have the duty on?—A. Personally, I would rather have the duty on.

Q. Why?—A. Because the duty is better for us, for it would have a tendency in years of good catches to prevent your people from increasing their business. It has that tendency.

Q. Has it any tendency to better you as well as to injure your neighbors?—A. That is what we were looking for—for better prices.

Q. Has it a tendency to increase prices to your fishermen?—A. It would.

Q. So, if it increases the price of the fish, it strikes me the consumer must pay the increased price?—A. I am not clear that the duty has anything to do with it: it is the catch.

Page 207.—Procter:

Q. And did not the duty on Canadian-caught fish replace the bounty?—A. Yes, and the reduction of the duty on salt was granted as an offset for the removal of the duty.

Page 208.—Procter:

Q. And that came later?—A. Yes; two or three years after the ratification of the treaty.

Q. When it was proposed to take the duty off you remonstrated, thinking that this would reduce the price of fish, and this was the general feeling among fishermen and of the inhabitants of the coast of New England?—A. Yes.

Page 312.—Warren:

Q. Now, with regard to the right of carrying our fish free into the United States, I suppose you think that it is of no advantage to your fishermen, that provision of the treaty?—A. I have no idea it is any advantage to our side of the house.

Q. It is a disadvantage, isn't it?—A. Yes; it is against us.

Q. Be kind enough to explain how.—A. All these things seem to me to be regulated by supply and demand. If there is 100,000 barrels of mackerel hove into our market on top of what we produce, the tendency is to depreciate prices.

Q. If this provision of the treaty increases the supply of mackerel in the United States market, it will bring down the price of fish?—A. State that again.

Question repeated. A. I think it would have that tendency.

Q. That is the reason you think it is no advantage to your fishermen to have the privilege of fishing inside?—A. No, putting both questions of the treaty together, it is no advantage, because the supply is increased and the prices are depreciated.

Q. You will admit this, that it is an advantage to the consumers, by bringing down the price? You admit that?—A. Yes.

Q. Then, in point of fact, it gives you cheap fish?—A. The tendency is to cheapen them.

Q. For the people of the United States?—A. Yes.

Page 326.—Lakeman:

Q. The American fishermen want the duty back on fish, I suppose?—A. I do not know about that, I am sure; but they naturally would wish to have it back again, I suppose, in order to exclude our fish from their market.

Q. I suppose that the consumer got his fish cheaper, owing to the removal of the duty and the admission of your fish into the American market?—A. The consumer would then get his fish cheaper. The more fish that are put on the market the cheaper the consumer gets them.

Q. Is not the result of the treaty, which admits your fish into the American market on equal terms with the American fish, to make the price of fish lower in that market?—A. It has that tendency evidently.

Q. Therefore, he gets his fish for less money?—A. Evidently he does. When herring are abundant the price is lower.

Q. It further follows that although a certain class of fishermen may lose something by this free admission of British fish into the American market, the American public gain by it?—A. By getting their fish at a lower price? Of course, it makes the price of fish lower in that market. That is clear.

Q. Then the consumer gets the fish cheaper?—A. He evidently does: the larger the quantity that is put upon the market the less the price will be.

Page 389.—Sylvanus Smith :

Q. Supposing the mackerel caught in colonial waters were excluded, would it or would it not have any effect upon the price you get for your fish? Supposing one-fourth of the quantity consumed in the States was excluded, would it have any effect on the price of the other three-fourths?—A. I think some, not much. I think it would stimulate our home production.

Q. In what way would it stimulate it? By raising the price, is it not?—A. Well, to a small extent.

Q. Well, then the effect of the British mackerel coming in is that the consumer is able to buy it cheaper than he otherwise would?—A. Well, up to a certain point. The effect would be very small. There is not a large enough quantity. It is our home catch that affects it.

Page 429.—Myrick :

Q. What would be the effect upon the business of your firm of putting back the former duty of \$2 a barrel upon mackerel sent from Prince Edward Island to the States? I would like you to explain your views in this regard particularly?—A. Well, I suppose, since we have got our business established there and our buildings and facilities for carrying on the fishery, it would be difficult for us to abandon it altogether, but we would then turn our attention more particularly to cod-fishing, until, at any rate, the mackerel season got well advanced and the mackerel became fat, and if any would bring a high price it would be those taken in the latter part of the season. We might catch some of them, but we would not undertake to catch poor mackerel to compete with those caught on the American shore.

Q. Explain why not?—A. Well, No. 3 mackerel, which are poor mackerel, generally bring a good deal less price than fat mackerel, and men do not catch any more poor mackerel than they do fat ones; the cost of catching them, and of barreling and shipping them, is the same, while the fat mackerel bring a better price. We would carry on the cod-fishing business irrespective of the American market; we would catch, cure, and ship codfish to other markets—to the West India markets—and we might make a fair business at that: but as to catching mackerel exclusively under such circumstances, it would not do to depend on it at all.

Page 430.—Myrick :

Q. What is it that fixes the price of mackerel in the United States market?—A. *O, well of course it is the supply and demand, as is the case with everything else.* When there is a large catch of mackerel on the American shore, prices rule low; this is a very sensitive market. If a fleet of 500, 600, or 800 vessels are fishing for mackerel, and these interested get reports of the fleet doing anything, the market falls at once; and this is the case particularly when prices are any way inflated.

Page 488.—Isaac Hall :

Q. You told Mr. Foster that if a duty was reimposed you would consider very seriously whether you would continue in the business?—A. Yes.

Q. You made that statement on the assumption that you paid the duty?—A. Yes.

Q. I think it has been explained very clearly that the price of fish depends almost altogether on the catch; this is the case to a large extent?—A. *To a large extent; yes.* If there is a large catch of mackerel prices rule low, and if there is a small catch they rule high.

Q. If the evidence given here on the part of British witnesses is correct, two-thirds of the fish taken by American vessels in the Gulf, I may say, are caught inshore; and assuming that two-thirds of their whole catch in the Gulf is taken inside of the three-mile limit, could the American fleet, if they were excluded from fishing within this limit, prosecute the Gulf fishery for the other third; would this pay them?—A. I think it would be a difficult business to do so, if that proportion is correct.

Q. *If the price goes up, who pays the enhanced price; is it not the consumer?*—A. Yes.

Q. And if the catch is large the price goes down? So it would depend in some measure on whether the catch on the American or on our own shore was large as to who would pay this duty?—A. Yes; and on the quality of the mackerel.

These are quotations that I make from the American evidence. I do not quote from our own, as Mr. Dana admitted that there was such a consensus of evidence on that point that he almost insinuated that it was too uniform to be depended upon.

I now propose to deal at length with two questions of vital importance in this inquiry, viz :

1st. In favor of which country is the balance of advantages arising from reciprocal freedom of trade gained by the Treaty of Washington? And

2d. Upon whom is the incidence of duties levied upon fish exported by Canada into the United States, the producer or the consumer?

I again (if I may do so without giving offense to my learned friends on the other side) express my obligations to Mr. Miall for the valuable assistance he has afforded in preparing my argument on these points.

Article XXI of the Treaty of Washington is as follows:

It is agreed that for the term of years mentioned in Article XXXIII of this treaty, fish and fish-oil of all kinds (except fish of the inland lakes and of the rivers fishing into them, and except fish preserved in oil), being the products of the fisheries of the United States or of the Dominion of Canada, or of Prince Edward Island, shall be admitted into each country respectively free of duty.

ARTICLE XXII.—Inasmuch as it is asserted by the Government of Her Britannic Majesty that the privileges accorded to the citizens of the United States under Article XVIII of this treaty are of greater value than those accorded by Articles XIX and XXI of this treaty to the subjects of Her Britannic Majesty, and this assertion is not admitted by the Government of the United States, it is further agreed that Commissioners shall be appointed to determine, having regard to the privileges accorded by the United States to the subjects of Her Britannic Majesty, as stated in Articles XIX and XXI of this treaty the amount of any compensation which, in their opinion, ought to be paid by the Government of the United States to the Government of Her Britannic Majesty in return for the privileges accorded to the citizens of the United States under Article XVIII of this treaty; and that any sum of money which the said Commissioners may so award shall be paid by the United States Government in a gross sum within twelve months after such award shall have been given.

The advantages which might be expected to flow from the reciprocal freedom of markets, provided for by Article XXI, might be of two kinds—

1. Increased trade.

2. Increased profits upon the volume of trade already existing.

The latter, however, could only obtain upon the supposition that the duties previously levied had been a burden upon the foreign producer.

In reference to the first of these questions it is contended—

1st. That the increase of consumption in the United States of British-caught fish has not been equal to the increase of consumption in Canada of the products of the United States fisheries.

2d. That a considerable portion of the products of British-American fisheries, exported to the United States for many years past, has been re-exported to foreign countries, where they have entered into competition with other foreign exports of Her Majesty's British-American subjects; and it must be borne in mind that these fish have not paid any duty.

These propositions will be dealt with seriatim.

By reference to statement No. 8, to be found on page 435 of the British Evidence, it will be found that for the seven years following the abrogation of the Reciprocity Treaty (*when duties were payable upon imports*) the imports of fish and fish-oil from the United States into the Dominion of Canada and Prince Edward Island were as follows:

1867.....	\$172,306
1868.....	170,156
1869.....	99,563
1870.....	99,409
1871.....	129,331
1872.....	123,670
1873.....	279,049

the average annual value being \$152,506.

During the years 1874, 1875, 1876, 1877, *when no duties were payable*, they have, under the operation of the treaty, been as follows:

1874.....	\$721,921
1875.....	727,587
1876.....	679,657
1877.....	759,382

the annual average having been increased to \$721,637.

The increase, therefore, of the United States exportations of fish and fish-oil annually to Canada has been \$569,131, of which \$179,030 consisted of fresh fish, leaving \$390,101 as the increase upon articles previously subjected to duty. As against this gain to the United States the British producers have gained an increased market in the United States of only \$340,589, as will be seen by the following figures to be found in the same statement.

During the seven years immediately preceding the Washington Treaty, *when duties were payable*, the United States imported the fish products of Canada and Prince Edward Island as follows, viz:

1867.....	\$1, 108, 779
1868.....	1, 103, 859
1869.....	1, 208, 805
1870.....	1, 129, 665
1871.....	1, 087, 341
1872.....	933, 041
1873.....	1, 393, 389

the annual average being \$1,137,839.

Since the treaty has been in full operation the annual average has increased to \$1,505,888, the imports having been as follows:

1874.....	\$1, 612, 295
1875.....	1, 637, 712
1876.....	1, 455, 629
1877.....	1, 317, 917

the increase in the annual average being \$368,049, of which increase \$27,460 was due to fresh fish, leaving \$340,589 as the increase upon articles previously subjected to duty. From these figures it is clear, then, that as respects the advantages arising from an increased market the United States and not Canada has been the greatest gainer. It may be remarked, before leaving this part of the subject, that although the statistics put in by the Government of the United States, as to the total imports into the United States from Canada, approximate very closely to those put in by Her Majesty's Government in respect of the exports from Canada to the United States, there is an important discrepancy between the exports from the United States to Canada as put in evidence in Table XIV of Appendix O, and the imports into Canada from the United States as put in evidence by her Majesty's Government.

This has already been referred to during the course of the evidence, but the attention of the Commissioners is now again directed to the explicit admissions of Mr. Young, the Chief of the Bureau of Statistics at Washington, in his reports of 1874, '75, and '76. With regard to this subject, for example, he says, at page XV of his report for 1876: "During the year ended 30th June, 1876, the total value of domestic merchandise and produce exported to Canada, and which was omitted in the returns of the United States custom officers on the Canadian border, as appears from the official statements furnished by the Commissioner of Customs of the Dominion, amounted to \$10,507,563, as against \$15,596,524 in the preceding year, and \$11,424,566 in 1874."

2. I beg now to call the attention of your excellency and your honors to the fact that a considerable proportion of the products of the British-American fisheries, exported to the United States for many years past, has been re-exported to other foreign countries, where they may be fairly presumed to have entered into competition with the direct foreign exports of Her Majesty's British-American subjects.

This will clearly appear by a reference to statement No. 11, to be found on page 437 of the British Evidence, which shows that the exports of dried and smoked, pickled and other cured fish (exclusive of Cali-

fornia) to all other foreign countries, from 1850 to 1876, averaged annually (at a gold valuation) as follows, viz :

1850 to 1854.....	\$755, 165, Non-reciprocal years.
1860 to 1866.....	1, 001, 984, Reciprocal years.
1866 to 1873.....	1, 196, 554, Non-reciprocal years.
1873 to 1876.....	1, 640, 426, Reciprocal years.

Now, comparing these exports from the United States to all foreign countries with the imports from Canada into the United States, it would appear that they are largely interdependent. The imports referred to are as follows:

1850 to 1854.....	\$792, 419
1856 to 1866.....	1, 377, 727
1866 to 1873.....	1, 137, 839
1873 to 1877.....	1, 505, 888

With regard to this matter, I call attention to the following assertion made at page 9 of the "Answer" of the United States, viz: "But while the result (of the Washington Treaty) to them (Canadians) has been one of steady development and increasing wealth, the United States cod fishery even has declined in amount and value." If, then, the domestic production of the United States has decreased, and the exports to foreign countries have increased in about the same ratio as have the importations from Canada, is it not evident that the increased imports have been made *mainly* with a view to the supply of foreign markets, or what is equivalent, to supply the hiatus in the markets of the United States due to the exportation of a greater quantity of their own fish products than the yield of their fisheries warranted in view of their own requirements for home consumption? It would seem from an examination of the statistics that the increased importations from Canada during those years in which no duties were levied on Canadian fish were largely due to an increased foreign trade, and it is contended that Her Majesty's subjects gained no substantial pecuniary advantage from supplying those foreign markets by indirect rather than direct trade. On the other hand, the tendency of this class of trade is to throw the foreign carrying trade hitherto conducted by subjects of Her Majesty more and more into the hands of the ship-owners and brokers of the United States.

A close examination of Canadian exports confirms this view. Of the entire exports, those to the United States and to other foreign countries compare as follows:

Years.	Percentage sent to the United States.	Percentage sent to other foreign countries.
1850-'54.....	31½	68½
1856-'66.....	34½	65½
1866-'73.....	28½	71½
1873-'76.....	31½	68½

If any further reasoning is required in support of this very evident contention, the following extract from page 529 of the United States Census Report for 1860 may be useful: "By the warehousing act of 1846, foreign fish were allowed to be imported and entered in bond, and thence exported without payment of duty; but under the reciprocity act colonial fish are admitted free of duty. These acts have caused our principal fish-distributing cities, such as Boston, New York, and Philadelphia, to become exporters of large quantities of foreign fish."

Although, therefore, the export trade of Canada has progressively increased from year to year, it is plain that the removal of fiscal obstructions on the part of the United States has had the effect, more or less, of turning a certain proportion of our foreign trade, with other foreign countries, into American channels. In other words, a larger proportion of the West Indian and South American fish trade of Canada has been done through United States merchants, whenever tariff restrictions have been removed.

Now, the able counsel and Agent of the United States has chosen, as the basis upon which to determine the question of remissions of duty, the year 1874.

It is contended that it would be manifestly unfair to take as a basis upon which to estimate such remissions, those years during which it is alleged the exportations from Canada to the United States have (*mainly in consequence of such remissions*) considerably increased.

The United States imports from Canada and Prince Edward Island of fish and fish-oil from 1867 to 1873, during which period duties were imposed upon such importations, were as follows:

1867.....	\$1,108,779
1868.....	1,103,859
1869.....	1,208,805
1870.....	1,129,665
1871.....	1,087,341
1872.....	933,041
1873.....	1,393,389

The average annual value of the above-mentioned importation was \$1,137,840, and the largest in any one year, \$1,393,389, in 1873.

The commerce and navigation returns of the United States give the importation from Canada in that year at \$1,400,562; or, including Newfoundland, at \$1,685,489, as follows:

Description.	Imported.		Rate of duty.	Amount of duty which would have been collected if entered for consumption.
	Quantity.	Values.		
Fish (fresh).....	8,627,724 lbs...	\$278,707	Free.....	
Herring.....	53,039 bbls..	179,377	\$1.00 per bbl..	\$53,039
Mackerel.....	89,698 bbls..	605,778	2.00 per bbl..	179,396
Sardines, &c., preserved in oil.....		8,527	50 per cent..	1,763
All others not elsewhere specified.....		552,032	13½ per cent	74,524
Oil, whale and fish.....	127,315 galls..	66,068	20 per cent..	13,213
Total.....		1,685,489		321,935

Now, by reference to the United States Commerce and Navigation Returns for 1873 (page 311) it will be seen that the re-exports of foreign fish were as follows:

	Barrels.	Amount.	Rate.	Duty.
Herring.....	19,928	\$81,775	\$1.00 per bbl..	\$19,928
Mackerel.....	36,146	178,328	2.00 per bbl..	72,292
All other.....		213,534	13½ per cent	28,827
Oil (page 319).....		25,601	20 per cent..	5,120
Total.....				126,167

This sum, therefore, representing duties which never were collected, must be deducted from the aggregate duties accrued, as shown by the figures just previously given, viz: \$321,935

Deduct—

Duties on re-exports.....	\$126, 167	
Estimated duties on fish products not covered by Washington Treaty, estimated at	10, 000	136, 167
		<hr/>

Thus leaving a sum of..... 185, 768

in regard to which it remains to be decided whether or not its remission has inured to the benefit of the Canadian producer.

The United States contend, at page 31 of the Answer, that the remission of duties to Canadian fishermen during the four years which have already elapsed under the operation of the treaty has amounted to about \$400,000 annually, which proposition it was explicitly stated would be conclusively proved in evidence which would be laid before the Commission. This extraordinary assertion which, it has been contended, has been contravened by the whole tenor of the evidence, whether adduced on behalf of the United States or of Great Britain, was followed up by the laying down of the following principle, viz:

Where a tax or duty is imposed upon a small portion of the producers of any commodity, from which the great body of its producers are exempt, such tax or duty necessarily remains a burden upon the producers of the smaller quantity, diminishing their profits, which cannot be added to the price, and so distributed among the purchasers and consumers.

It is contended in reply that this principle is true only in those cases in which the ability on the part of the majority of producers to supply the commodity thus taxed is fully equal to the demand.

The question whether the consumer or producer pays any imposts levied upon the importation of certain commodities does not depend upon whether the body of foreign producers is large or small relatively to the body of domestic producers, with whose products theirs are to come into competition, but simply upon the question whether or not the existing home production is equal to the demand. If it be not equal, and a quantity equal to one-third or one-fourth of that produced at home be really required, prices must go up until the foreign producer can be tempted to supply the remainder, and the consumer will pay the increased price not only upon the fraction imported, but upon the greater quantity produced within the importing country as well. And the tendency of all the evidence in this case, British and American, has been a most explicit and direct confirmation of this principle.

The British evidence, to which I shall immediately call your attention, proves beyond a doubt that when duties were imposed upon mackerel of \$2 per barrel, British exporters to the United States realized a sufficient increase of price to enable them to pay those duties and still receive a net amount equal to the average price received before those duties were imposed, as well as after they were removed.

Upon a careful examination of the United States testimony, it will, I submit, appear that during those years when duties were imposed upon British-caught fish, the price of mackerel when landed by United States vessels from their fishing voyages in the bay, was to the full extent of the duty in excess of the price they commanded after the duty was repealed, or before it was imposed.

It is impossible to conceive a clearer proof that the consumer and not the producer had to bear the burden of the duty, and not only that, but an equivalent burden upon every barrel of mackerel caught and landed by the United States mackerel vessels during the existence of that duty.

In the evidence adduced on behalf of Her Majesty's Government this point has been established beyond possibility of refutation. The average prices obtained by the following firms, viz, A. H. Crowe, Lawson & Harrington, and Young, Hart & Co., in gold, at Halifax, after payment of duties and all other charges, are given by the various witnesses as follows, the sales being made in all cases to United States buyers:

British evidence.

1861-1866 (DURING RECIPROCITY).

P. 424, A. H. Crowe	No. 1.	\$13 12	No. 2.	\$8 75	No. 3.	\$6 65
P. 419, Lawson & Harrington	No. 1.	12 78	No. 2.	7 98	No. 3.	6 73
P. 425, Young, Hart & Co	No. 1.	12 66	No. 2.	8 54	No. 3.	6 04
Average prices.....		12 85		8 42		6 47

1866-1873 (DUTIABLE PERIOD).

P. 424, A. H. Crowe	No. 1.	\$13 05	No. 2.	\$9 43	No. 3.	\$6 55
P. 419, Lawson & Harrington	No. 1.	13 30	No. 2.	9 83	No. 3.	6 63
P. 425, Young, Hart & Co	No. 1.	14 46	No. 2.	10 62	No. 3.	6 28
Average prices.....		13 60		9 96		6 49

1873-1877 (DURING WASHINGTON TREATY).

P. 424, A. H. Crowe	No. 1.	\$12 37	No. 2.	\$10 00	No. 3.	\$8 00
P. 419, Lawson & Harrington	No. 1.	12 25	No. 2.	8 62	No. 3.	7 46
P. 425, Young, Hart & Co	No. 1.	12 81	No. 2.	9 39	No. 3.	7 18
Average prices.....		12 47		9 33		7 55

It will be observed, then, that the Halifax merchants had to submit to no decline in price from 1866 to 1873.

The evidence adduced on behalf of the United States proves the prices at which mackerel caught by United States vessels in the Bay of St. Lawrence during these same periods were valued, on settling with the crews (exclusive of the cost and profits of packing, which would have increased the prices by \$2 per barrel), to have been as follows:

Year.	J. O. Proctor, as per page 208, United States Evidence.	Sylvanus Smith, page 230, United States Evidence.	George Steele, page 231, United States Evidence.
1857.....	\$7 80		
1858.....	12 00		10 00
1859.....	12 30		12 00
1860.....	11 90		10 00
1861.....	5 20		5 00
1862.....	7 60		7 00
1863.....	10 06		10 04
1864.....	11 13		12 01
1865.....	14 20		12 01
	9193 09		8004 07
Average.....	10 34		10 51
1866.....	15 74		15 35
1867.....	12 02		14 12
1868.....	14 45	\$16 00	14 00
1869.....	17 80	16 00	17 31
1870.....	11 90	13 00	
1871.....	8 00		
1872.....	9 86	14 00	9 02
	6185 97	5067 00	5073 05
Average.....	14 33	13 40	14 77
1873.....	9 85	9 25	10 00
1874.....	5 52	6 00	6 25
1875.....	14 46	11 33	14 19
1876.....	11 02	10 90	11 00
	4140 88	4036 75	4102 49
Average.....	10 92	9 19	10 02

These prices produce the following result :

Witnesses.	1857 to 1865, during operation of Rect. Treaty.	1866 to 1872, dutiable period.	1873 to 1876, during Washington Treaty.
J. O. Proctor.....	\$10 34	\$14 33	\$10 33
S. Smith.....	Nil	13 40	9 19
George Steele.....	10 51	14 77	10 02
Average price in United States currency.....	10 42	14 17	10 01
Approximate gold prices*.....	9 17	11 33	9 00

* Average price of currency, 1857 to 1865, 88 cents; 1866 to 1872, 80 cents; 1873 to 1876, 80 cents.

From these prices it is abundantly clear that the consuming classes in the United States were compelled to pay at least \$2 (gold) per barrel more for all the mackerel brought in by United States vessels during the existence of the duty.

What stronger evidence can be required than these facts (perhaps the only facts with reference to which the testimony of witnesses on both sides is fully and absolutely in accord) to satisfy an impartial mind as to the real incidence of taxation upon the article in question? And inas-

much as the mackerel is the only fish the market for the best qualities of which is limited to the United States, it is not deemed necessary to continue the inquiry with reference to other fish products to which the markets of the world are open, and whose prices therefore can in no way be influenced by the United States.

Now, if your honors please, there is but one other subject to which I will call the attention of this Commission, before I close, and that is to the offer made by the American Commissioners at the time this Treaty of Washington was being negotiated. I refer to the offer to remit the duty on coal, lumber, and salt. The circumstances are stated at length in the Reply of Great Britain to the Answer of the United States, and therefore I need not refer particularly to the figures. The sum was \$17,800,000, as far as I can recollect. Now, if it is true, as contended by the United States in their Answer, that the remission of duties means a boon to the persons in whose favor they are remitted, and that those persons are the producers, then it is clear that *this is a fair estimate, put by the American High Commissioners themselves, upon the fishing privileges that they were then endeavoring to obtain from the British Government.* Whether that is a correct principle or not, is not what I am here to contend. My argument is that that was the view of the United States as a country, believing in the proposition that the producer, and not the consumer, pays the duty.

In their own Answer they put the remission of duties which they say inures to our benefit at \$400,000 a year. While we do not admit the correctness of their view of that remission, either in principle or amount, their answer is an admission of their estimate of the value of the concessions afforded to them. If the concessions were worth as much as that, then the award of this Commission must of necessity be in favor of Great Britain for a large amount. But it may be said "You have got the value of this because we have remitted these duties." We have shown by evidence and argument, conclusively, that the producer does not pay one dollar of these duties, that fish from the Halifax market was sent there during the period when the duties were paid, and that the fish merchant here received back, in his own counting-house, for the fish sold in Boston, as much money as when there was no duty paid at all. The remission of duty, therefore, is a benefit to citizens of the United States, and not to us.

I have, in order to close this argument to-day, passed over a number of subjects which I at one time intended to call to the attention of the Commission. But the time is pressing. We are to a considerable extent worn out with the labors of the Commission. Yesterday I asked the Commission to open at an earlier hour to-day, in order that I might finish my remarks without further adjournment, and I am happy to be able to redeem my promise.

I have now brought my argument on behalf of Great Britain to a close. To the shortcomings and defects of that argument I am painfully alive. But the cause I have advocated is so righteous in itself, has been supported and sustained by evidence so trustworthy and conclusive, and is to be decided by a tribunal so able and impartial as that which I have the honor to address, that I entertain no fears of the result.

Although I rejoice that a responsibility which for many months has pressed with no ordinary weight upon my learned colleagues and myself, is well nigh ended, yet I cannot but feel a pang of regret that the days of my pleasant intercourse with the gentlemen engaged in and connected with this most important inquiry are drawing to a close.

For the kind consideration and unfailing urbanity extended to my colleagues and myself, I tender to your excellency and your honors my most sincere acknowledgment and thanks.

What shall I say to my brethren of the United States! To their uniform courtesy, tact, and kindly feeling we chiefly owe it that this protracted inquiry has almost reached its termination without unpleasant difference or dissension of any kind.

To the cause of the United States, which both my patriotism and my professional duty constrain me to regard as utterly untenable, the ability, ingenuity, and eloquence of Judge Foster, Mr. Dana, and Mr. Trescott, have done more than justice. They have shown themselves no unworthy members of a profession which in their own country has been adorned and illustrated on the bench and at the bar by the profound learning of a Marshall, a Kent, and a Story, and by the brilliant eloquence of a Webster and a Choate. From my learned, able, and accomplished brethren of the United States I shall part, when this Commission shall have closed its labors, with unfeigned regret.

A few words more and I have done. To the judgment of this tribunal, should it prove adverse to my anticipations, Great Britain and Canada will bow without a murmur. Should, however, the decision be otherwise, it is gratifying to know that we have the assurance of her counsel, that America will accept the award in the same spirit with which England accepted the Geneva judgment, and like England pay it without unnecessary delay. This is as it should be. It is a spirit which reflects honor upon both countries. The spectacle presented by the Treaty of Washington, and the arbitrations under it, is one at which the world must gaze with wonder and admiration. While nearly every other nation of the world settles its difficulties with other powers by the dreadful arbitrament of the sword, England and America, two of the most powerful nations upon the earth, whose peaceful flags of commerce float side by side in every quarter of the habitable globe, whose ships of war salute each other almost daily in every clime and on every sea, refer their differences to the peaceful arbitrament of Christian men, sitting without show or parade of any kind in open court.

On the day that the Treaty of Washington was signed by the High Contracting Parties, an epoch in the history of civilization was reached. On that day the heaviest blow ever struck by human agency fell upon that great anvil of the Almighty, upon which in His own way, and at His appointed time, the sword and the spear shall be transformed into the plowshare and the reaping-hook.



APPENDIX K.

BRIEF ON BEHALF OF HER MAJESTY'S GOVERNMENT IN REPLY TO THE BRIEF ON BEHALF OF THE UNITED STATES.

The extent to which the dominion and jurisdiction of a maritime state extends on its external sea-coast has not always or by different nations been treated with unanimity. After the introduction of fire-arms (see "Anna," 5 Rob., 385) that extent or distance, upon the then reason of the thing—"terre dominium finitur ubi finitur armorum vis, as cited by Lord Stowell—was said to be usually recognized to be about three miles from the shore, but now that the range of modern artillery has been so largely increased, if not upon other grounds, it is probable that a greater distance would be claimed by many nations, including the United States of America. The practical, and therefore real and true reason of the rule is stated by Kent ("Commentaries" I, p. 32), where after commenting on a citation of Azuni, he says: "All that can reasonably be asserted is that the dominion of the sovereign of the shore over the contiguous sea extends as far as is requisite for his safety and for some lawful end." No dispute has arisen touching the distance from the external line of coast from which American fishermen have been excluded from taking fish, and therefore that subject may be rejected from the present discussion.

It is admitted by all authorities, whether writers on international law, judges who have interpreted that law, or statesmen who have negotiated upon or carried it into effect in treaties or conventions, that every nation has the right of exclusive dominion and jurisdiction over those portions of its adjacent waters which are included by promontories or headlands within its territories. The rule is thus stated in Wheaton's International Law (second edition by Mr. Lawrence, p. 320): "The maritime territory of every state extends to the ports, harbors, bays, mouths of rivers, and adjacent parts of the sea inclosed by headlands belonging to the same state."

Upon examination of Article I of the Convention of 1818, mentioned in the eighteenth article of the Treaty of Washington, it will be ascertained how far the privilege has been conceded by the latter article to the United States fishermen to use bays in British North America.

The following is Article XVIII of the Treaty of Washington:

It is agreed by the High Contracting Parties that, in addition to the liberty secured to the United States fishermen by the Convention between Great Britain and the United States, signed at London on the 20th day of October, 1818, of taking, curing, and drying fish on certain coasts of the British North American Colonies therein defined, the inhabitants of the United States shall have, in common with the subjects of Her Britannic Majesty, the liberty, for the term of years mentioned in Article XXVIII of this treaty, to take fish of every kind except shell-fish on the sea coasts and shores, and in the bays, harbors, and creeks of the provinces of Quebec, Nova Scotia, and New Brunswick, and the colony of Prince Edward Island, and of the several islands thereunto adjacent, without being restricted to any distance from the shore, with permission to land upon the said coasts and shores and islands, and also upon the Magdalen Islands, for the purpose of drying their nets and curing their fish: *Provided*, That in so doing they do not interfere with the rights of private property or with British fish-

ermen in the peaceable use of any part of the said coasts in their occupancy for the same purpose.

It is understood that the above-mentioned liberty applies solely to the sea fishery, and that the salmon and shad fisheries, and all other fisheries in rivers and in the mouths of rivers, are hereby reserved exclusively for British fishermen.

Article I of the Convention of 1818 is as follows:

Whereas differences have arisen respecting the liberty claimed by the United States for the inhabitants thereof to take, dry, and cure fish on certain coasts, bays, harbors, and creeks of His Britannic Majesty's dominions in America, it is agreed between the High Contracting Parties that the inhabitants of the said United States shall have, forever, in common with the subjects of His Britannic Majesty, the liberty to take fish of every kind on that part of the southern coast of Newfoundland which extends from Cape Ray to the Rameau Islands, on the western and northern coast of Newfoundland, from the said Cape Ray to the Quirpon Islands, on the shores of the Magdalen Islands, and also on the coasts, bays, harbors, and creeks from Mount Joly, on the southern coast of Labrador, to and through the Straits of Belle Isle, and thence northwardly indefinitely along the coast, without prejudice, however, to any of the exclusive rights of the Hudson Bay Company; and that the American fishermen shall also have liberty, forever, to dry and cure fish in any of the unsettled bays, harbors, and creeks of the southern part of the coast of Newfoundland, hereabove described, and of the coast of Labrador; but so soon as the same or any portion thereof shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such portion so settled, without previous agreement for such purpose with the inhabitants, proprietors, or possessors of the ground. And the United States hereby renounce forever any liberty heretofore enjoyed, or claimed by the inhabitants thereof, to take, dry, or cure fish on or within three marine miles of any of the coasts, bays, creeks, or harbors of His Britannic Majesty's dominions in America not included within the above-mentioned limits. Provided, however, that the American fishermen shall be admitted to enter such bays or harbors for the purpose of shelter, and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose whatever. But they shall be under such restrictions as shall be necessary to prevent their taking, drying, or curing fish therein, or in any other manner whatever abusing the privileges hereby reserved to them.

The controversy turns upon the true effect of the renunciation on the part of the United States "of any liberty heretofore enjoyed or claimed by the inhabitants thereof to take, dry, or cure fish on or within three marine miles of any of the coasts, bays, creeks, or harbors of His Britannic Majesty's dominions in America," not included within certain above-mentioned limits.

On the part of Great Britain it is maintained that the United States fishermen were prohibited from fishing within three marine miles of the *entrance* of any of such bays, creeks, or harbors of His Britannic Majesty's dominions in America, while the United States Government contend that the United States fishermen were permitted by that article to fish in the said bays, creeks, or harbors, provided they did not approach within three miles of the shore in the pursuit of their calling.

The correspondence between the Government of Great Britain and that of the United States, a portion of which is set out in the United States brief, shows that with the exception of the Bay of Fundy, which, for exceptional reasons, and by the indulgence of Great Britain, was differently treated, Her Majesty's Government has uniformly contended for the construction now relied on.

This correspondence as well as the utterances of American statesmen, support the construction contended for by Great Britain.

Mr. Stevenson, United States minister in London, in 1841, March 27, writing to Lord Palmerston, then foreign secretary, puts the two views very clearly, "The provincial authorities," he says, "assume a right to exclude the vessels of the United States from all their bays (even including those of Fundy and Chaleurs), and likewise to prohibit their approach within the three miles of a line drawn from headland to headland, instead of from the indents of the shores of the provinces. The

fishermen of the United States believe that they can with propriety take fish anywhere on the coasts of the British provinces if not nearer than three miles to land."

But Mr. Everett, also United States minister in London, in 1844, May 25, puts a different construction upon the Treaty of 1818. In his letter to Lord Aberdeen of May 25, 1844, quoted in the United States Brief (pp. 15, 16, 17, and 18), he says:

It was notoriously the object of the article of the treaty in question to put an end to the difficulties which had grown out of the operations of the fishermen from the United States along the coasts and upon the shores of the settled portions of the country, and for that purpose to remove their vessels to a distance not exceeding three miles from the same. In estimating this distance the undersigned admits it to be the intent of the treaty as it is in itself reasonable to have regard to the general line of the coast, and to consider its bays, creeks, and harbors—that is, the indentations usually so accounted—as included within that line. But the undersigned cannot admit it to be reasonable, instead of thus following the general directions of the coast, to draw a line from the southwesternmost point of Nova Scotia to the termination of the northeastern boundary between the United States and New Brunswick, and to consider the arms of the sea which will thus be cut off, and which cannot, on that line, be less than sixty miles wide, as one of the bays on the coast from which American vessels are excluded. By this interpretation the fishermen of the United States would be shut out from the waters distant, not three but thirty miles, from any part of the colonial coast. The undersigned cannot perceive that any assignable object of the restriction imposed by the Convention of 1818, on the fishing privilege accorded to the citizens of the United States by the Treaty of 1783, requires such a latitude of construction. It is obvious that by the terms of the treaty the farthest distance to which fishing vessels of the United States are obliged to hold themselves from the colonial coasts and bays is three miles. But owing to the peculiar configuration of these coasts, there is a succession of bays indenting the shores both of New Brunswick and Nova Scotia, within any distance not less than three miles—a privilege from the enjoyment of which they will be wholly excluded—in this part of the coast, if the broad arm of the sea which flows up between New Brunswick and Nova Scotia is itself to be considered one of the forbidden bays.

Here, in plain, unambiguous language, Mr. Everett represents to Lord Aberdeen that the Bay of Fundy ought not to be treated as a bay from which United States fishermen were to be excluded, under the Convention of 1818, *because the headlands were not only 60 miles apart, but one of them was not British*. Moreover, he points out that "owing to the peculiar configuration of these coasts" (*i. e.*, the coasts of the Bay of Fundy itself), there is a succession of bays indenting the shores both of New Brunswick and Nova Scotia (*i. e.*, the two shores of the Bay of Fundy), within any distance not less than three miles," from which last-named bays the American fishermen had a right to approach, and from which privilege they were necessarily excluded by holding the whole body of the Bay of Fundy to be British territorial water.

It is by no means conceded that because on both coasts of the great Bay of Fundy large bays exist which, according to the British contention, American fishermen are forbidden to approach, Mr. Everett was right in his argument that the Bay of Fundy is really open sea, yet there is at all events a plausibility about the reasoning which cannot attach to the contention of the United States in reference to any other bay on the British American coasts.

Not a word is to be found in this letter affording the slightest countenance to the doctrine contended for in the answer and brief of the United States, viz, that no bay was intended to be included in the Convention of 1818, except bays of no greater width at the mouths than 6 miles. Had such a doctrine been in the mind of Mr. Everett when he wrote this letter, it may be assumed that he would not have refrained from bringing it under Lord Aberdeen's notice. But so far from setting up such a doctrine, he says that he "admits it to be the intent of the

treaty, as it is in itself reasonable, to have regard to the general line of the coast, and to consider its *bays, creeks, and harbors*, that is, *indentations usually so accounted, as included within that line.*" What line? Clearly the line within three miles from which all American fishing-vessels are excluded under the convention. Mr. Everett never ventured to hint that the bay of Miramichi or the bay of Chaleurs did not fall within the words of the Convention of 1818. He argues that if the United States fishermen are to be excluded from the Bay of Fundy, "two entirely different limitations would exist in reference to the right of shelter reserved to American vessels on the shores of Her Majesty's colonial possessions. They would be allowed to fish within three miles of the place of shelter along the greater part of the coast, while in reference to the entire extent of shore within the Bay of Fundy they would be wholly prohibited from fishing along the coast, and would be kept at a distance of twenty or thirty miles from any place of refuge in case of extremity.

This argument impliedly admits that, whatever may be the case as to the Bay of Fundy, United States fishermen were, by the Treaty of 1818, excluded, except for purposes of necessity, from other bays along the coast of Her Majesty's colonial possessions and from fishing within three miles of those bays.

The British Government, however, in 1845, whilst maintaining as a matter of strict construction that the Bay of Fundy was rightfully claimed by Great Britain as a bay within the meaning of the Convention of 1818, relaxed the application of this construction to that bay, and allowed the United States fishermen to pursue their avocations in any part of it, provided they should not approach, except in cases specified in the Treaty of 1818, within three miles of the entrance of any bay on the coast of Nova Scotia or New Brunswick.

This proviso shows clearly the construction put at that time (1845) and before by the British Government upon the word "bay" in the Convention of 1818 on both points, that the dimensions of the bay were immaterial, and that no approach was permissible within three miles of the entrance of a bay.

In a state paper dated July 6, 1852, Mr. Webster, Secretary of State, although contending that the wording of the Convention of 1818 was not conformable to the *intentions* of the United States, as one of the contracting parties, says:

It would appear that by a strict and rigid construction of this article (Article I of Convention of 1818) fishing vessels of the United States are precluded from entering into the bays or harbors of the British provinces except for the purposes of shelter, repairing damages, and obtaining wood and water. A bay, as is usually understood, is an arm or recess of the sea entering from the ocean between capes or headlands; and the term is applied equally to small and large tracts of water thus situated. It is common to speak of Hudson's Bay or the Bay of Biscay, although they are very large tracts of water.

The British authorities insist that England has a right to draw a line from headland to headland and to capture all American fishermen who may follow their pursuits inside of that line. *It was undoubtedly an oversight* in the Convention of 1818 to make so large a concession to England, since the United States had usually considered that those vast inlets or recesses of the ocean ought to be open to American fishermen as freely as the sea itself, to within three miles of the shore.

Had this language been used by so great and experienced a statesman as Mr. Webster in any ordinary debate, it would be testimony of the most weighty character against the views put forth on this subject in the answer of the United States. But when it is borne in mind that Mr. Webster used these words in his official capacity as Secretary of State they must be considered as conclusive.

Mr. Rush, who negotiated the Treaty of 1818, in a letter to Secretary Marcy, dated 18th July, 1853, says:

These are the decisive words in our favor. They mean no more than that our fishermen, whilst fishing in the waters of the Bay of Fundy, should not go nearer than three miles to any of those small inner bays, creeks, or harbors which are known to indent the coasts of Nova Scotia and New Brunswick. To suppose they were bound to keep three miles off from a line drawn from headland to headland on the extreme outside limits of that bay—a line which might measure fifty miles or more, according to the manner of drawing or imagining it—would be a most unnatural supposition.

Similar reasons apply to all other large bays and gulfs. In signing the treaty we believed that we retained the right of fishing in the sea whether called a bay, gulf, or by whatever name designated. Our fishermen were waiting for the word not of exclusion but of admission to these large outer bays or gulfs.

This reasoning of Mr. Rush evades the question. He admits the right of exclusion from some bays, but can only say as to larger bays (not defining or even describing what he means by larger bays) that it is not to be supposed the right of fishing in them would be signed away by the American negotiators, a supposition, however, which, it appears, Mr. Webster and other American statesmen did entertain and express.

Senator Soulé, in the Senate, August 5, 1852, referring to the words of Mr. Webster, already cited, said:

Is England right? If we trust the Secretary of State, in the view which he takes of her claims, it would seem as if the terms of the letter of the treaty were on her side. This Mr. Webster peremptorily admits, while others but debate it upon mere technicalities of language.

After quoting from Webster, Senator Soulé continued:

Here the whole is surrendered; there is no escape from the admission. It was an oversight to make so large a concession to England. The concession was then made, was it not? If so, the dispute is at an end; and yet it were a hard task to justify the summary process through which England has sought to compel us to compliance with the concession, particularly as she had, to say the least of it, suffered our fishermen to haunt the Bay of Fundy, by express allowance in 1844.

On August 12, 1852, Senator Butler, though expressing a desire to make further inquiries into the subject, said:

We cannot go beyond the Treaty of 1818; and that What is a British bay? What is one of the bays and harbors of Great Britain?

And after speaking of the clear concessions to American fishermen on some of the coasts, bays, &c., of Newfoundland, Senator Butler adds:

But so far as regards the Bays of Nova Scotia and New Brunswick, we have no right under the terms of the treaty to fish in them if they can be regarded as British bays.

On August 14, 1852, Senator Seward, answering the members of the Senate who had criticised the passage above quoted from Mr. Webster, said:

I cannot assent to the force of the argument of the honorable Senator from Louisiana. I am the more inclined to go against it, because I think it is getting pretty late in the day to find the Secretary of State wrong in the technical and legal construction of an instrument. Let us test the argument. The honorable Senator says that where the government occupies both sides of the coast, and where the strait through which the waters of the bay flow into the ocean is not more than six miles wide, then there is dominion over it.

Now, then, the Gut of Canso is a most indispensable communication for our fishermen from the Atlantic Ocean to the Northumberland Straits and to the Gulf of Saint Lawrence, for a reason which any one will very readily see by referring to the map: yet the Gut of Canso is only three-quarters of a mile wide. I should be sorry to admit an argument which Great Britain might turn against us, to exclude us from that important passage.

Again I recall the honorable Senator's argument, viz:

"Two things unite to give a country dominion over an inland sea. The first is, that

the land on both sides must be within the dominion of the government claiming jurisdiction; and then that the strait is not more than six miles wide; but that if the strait is more than six miles wide, no such jurisdiction can be claimed."

Now, sir, this argument seems to me to prove too much. I think it would divest the United States of the harbor of Boston, all the land around which belongs to Massachusetts or the United States, while the mouth of the bay is six miles wide. It would surrender our dominion over Long Island Sound—a dominion which, I think, the State of New York and the United States would not willingly give up. It would surrender Delaware Bay; it would surrender, I think, Albemarle Sound, and the Chesapeake Bay; and I believe it would surrender the Bay of Monterey, and perhaps the Bay of San Francisco on the Pacific coast.

Senator Tuck, during the same debate, said :

Perhaps I shall be thought to charge the Commissioners of 1818 with overlooking our interests. They did so, in the important renunciation which I have quoted; but they are obnoxious to no complaints for so doing. In 1818, we took no mackerel on the coasts of British possessions, and there was no reason to anticipate that we should ever have occasion to do so. Mackerel were then found as abundantly on the coast of New England as anywhere in the world, and it was not till years after that this beautiful fish, in a great degree, left our waters. The mackerel fishery on the provincial coasts has principally grown up since 1838, and no vessel was ever licensed for that business in the United States till 1828. The Commissioners in 1818 had no other business but to protect the cod fishery, and this they did in a manner generally satisfactory to those most interested.

The document dated April 12, 1866, partially quoted at page 28 of the United States brief, would convey a far different meaning if given in full. The Commissioners are desired to notice that the extract there given is in the text immediately preceded by the following :

Her Majesty's Government are clearly of opinion that, by the Convention of 1818, the United States have renounced the right of fishing, not only within three miles of the colonial shores, but within three miles of a line drawn across the mouth of any British bay or creek. But the question, what is a British bay or creek, is one which has been the occasion of difficulty in former times.

It is therefore, *at present*, the wish of Her Majesty's Government neither to concede, nor, *for the present*, to enforce any rights in this respect which are in their nature open to any serious question.

It must be remembered that at the date of this document the American fishermen were passing from the free use of all Canadian fisheries granted by the Reciprocity Treaty to the limitations of the Convention of 1818, and Her Majesty's Government, through friendly feelings, desired to give American fishermen some time to return quietly to the system created by the Convention of 1818.

With regard to the memorandum quoted at p. 32 of the brief, Her Majesty's Government are not aware that any such memorandum was communicated by them to the Government of the United States, and the United States Agent is challenged to produce any record of such communication having been officially made to the United States Government by the British representative at Washington.

As a matter of fact, a private memorandum in such terms was sent to Her Majesty's representative at Washington, but accompanied by distinct instructions not to bring it under the consideration of the Government of the United States at the time.

The matter with reference to which it was written was a project for the appointment of a joint commission which might serve to remove occasion for future misunderstanding.

The quotation given in the brief is as follows :

The right of Great Britain to exclude American fishermen from waters within three miles of the coast is unambiguous, and, it is believed, uncontested. But there appears to be some doubt what are the waters described as within three miles of bays, creeks, and harbors. Where a bay is less than six miles broad, its waters are within the three-miles limit, and, therefore, clearly within the meaning of the treaty; but when it is

more than that breadth, the question arises whether it is a bay of Her Britannic Majesty's dominions.

This is a question which has to be considered in each particular case with regard to international law and usage. When such a bay, &c., is not a bay of Her Majesty's dominions, the American fishermen will be entitled to fish in it, except within three miles of the "coast; when it is a bay of Her Majesty's dominions," they will not be entitled to fish within three miles of it; that is to say (it is presumed), within three miles of a line drawn from headland to headland.

The following are, however, the subsequent passages in the memorandum which are entirely omitted in the brief:

It is desirable that the British and American Governments should come to a clear understanding in the case of each bay, creek, or harbor, what are the precise limits of the exclusive rights of Great Britain, and should define these limits in such a way as to be incapable of dispute, either by reference to the bearings of certain headlands, or other objects on shore, or by laying the lines down on a map or chart.

With this object it is proposed that a commission should be appointed to be composed of representatives of Great Britain, the United States, and Canada, to hold its sittings in America, and to report to the British and American Governments their opinion, either as to the exact geographical limits to which the renunciation above quoted applies, or, if this is impracticable, to suggest some line of delineation along the whole coast, which, though not in exact conformity with the words of the convention, may appear to them consistent in substance with the just rights of the two nations, and calculated to remove occasion for future controversy."

It is not intended that the result of the Commission should necessarily be embodied in a new Convention between the two countries, but if an agreement can be arrived at it may be sufficient that it should be in the form of an understanding between the two governments as to the practical interpretation which shall be given to the Convention of 1818.

It would be difficult for the Commissioners, with the context of the memorandum thus before them, to understand, even if this document had been officially communicated to the United States Government, how by it any doctrine was laid down to vary or alter the Convention of 1818, and it is submitted that nothing was intended by the memorandum, as in fact nothing was expressed therein, in any manner waiving or abandoning the rights secured to Great Britain by that Convention.

As to the instructions from Mr. Mitchell, quoted at pp. 31 and 32 of the brief, it is only necessary to say that, instead of contributing to the establishment of the "status" claimed in the brief, they are of a character to prevent any such misapprehension. They reaffirm the doctrine of the headlands in its fullest sense; but in view of impending negotiations, which resulted in the Washington Treaty, the authorities, both in England and in Canada, were desirous of removing all obstacles by the temporary relaxation of their rights, and thereby promoting a friendly and amicable settlement. This consideration may explain the language of Mr. Rogers in his letter to the admiralty of April 30, 1870, quoted at p. 30 of the brief.

It may be here added that the Joint High Commissioners, when the Washington Treaty was in course of negotiation, could not and did not ignore the difference which had from time to time arisen as to the interpretation of the first article of the Convention of 1818. In fact, these differences had given birth to the Reciprocity Treaty of 1854, and being revived by the termination of that treaty in 1866, the Joint High Commission was proposed primarily to dispose of that difficulty. In the order of the subjects to be submitted to that Commission, according to the letter from Mr. Fish to Sir E. Thornton, 30th January, 1871, the question of the fisheries is first mentioned. It was "deemed of importance to the good relations which they were ever anxious should subsist and be strengthened between the United States and Great Britain that a friendly and complete understanding should be come to between the

two governments as to the extent of the rights which belong to the citizens of the United States and Her Majesty's subjects, respectively, with reference to the fisheries on the coasts of Her Majesty's possessions in North America, and as to any other questions," &c.

Had the "status" contended for in the United States brief been contemplated, it is reasonable to suppose that it would have been formally adopted or referred to in the treaty. Not only, however, are the protocols of the conference silent on this subject, but no record exists that such a status was ever entertained as a basis of negotiation on the part of either government. On the contrary, and as if to exclude the possibility of doubt, the words of the Convention of 1818 are adopted in their integrity, and thus constituted the legal and actual basis on which the indemnity to be paid is to be assessed.

The question, therefore, is simply one of construction of words. The particular expressions in the first article of the Convention, which have furnished the occasion of a disputed construction, are "on or within three marine miles of any of the coasts, bays, creeks, or harbors of His Britannic Majesty's dominions." For the solution of this question it will be convenient, in the first place, to state certain principles of interpretation to which recourse may be had when there is any ambiguity in the terms of the treaty.

In the first place, it is an universal rule, dictated by common sense, for the interpretation of contracts, and equally applicable to all instruments, that if there is anything ambiguous in the terms in which they are expressed they shall be explained by the *common* use of those terms in the country in which the contracts were made. (Pothier, Obligations, No. 94, *Ce qui peut paraître ambigu dans un contrat, s'interprète par ce qui est d'usage dans le pays.*)

In the second place, it is an admitted principle that, for the meaning of the *technical* language of jurisprudence, we are to look to the laws and jurisprudence of the country, if the words have acquired a plain and positive meaning. (The *Huntress*, *Davie's Admiralty* [American] Reports p. 100. *Flint v. Fleming*, 1 Barnwall and Adolphus, 48.)

In the third place, as treaties are contracts belonging to the law of nations, and the law of nations is the common property of all nations, and, as such, a part and parcel of the law of every country (*De Lovio v. Boit*, 2 Gallison's Admiralty [American] Reports, p. 398; *Buvot v. Burbot*, cited by Lord Mansfield in *Triquet and others v. Peach*, 3 Burrows, p. 1481), if we have recourse to the usage of nations, or to the decisions of courts in which the law of nations is administered, for the definition of terms which occur in such contracts, and which have received a plain and positive meaning, we are not going beyond the law of either of the countries which are parties to the treaty.

Vattel says that it is not allowable to interpret what has no need of interpretation. If the meaning be evident, and the conclusion not obscure, you have no right to look beyond or beneath it, to alter or add to it by conjecture. Wolff adds, that to do so is to remove all certainty from human transactions. To affix a particular sense, founded on etymology or other reasons, upon an expression, in order to evade the obligation arising from the customary meaning, is a fraudulent subterfuge aggravating the guilt of one *fedifragous* party "*fraus enim adstringit non dissolvit perjurium.*"

These rules are adopted by T. D. Woolsey, late president of Yale College (New York, 1877), p. 185, § 109, in his *Introduction to the study of International Law*.

The Convention of 1818 was a contract between Great Britain and

the United States, and is to be construed like any other contract. The rule for such construction is well laid down by Mr. Addison in his work on contracts (seventh edition) at page 164. He says: "Every contract ought to be so construed that no clause, sentence, or word shall be superfluous, void, or insignificant; every word ought to operate in some shape or other, *nam verba debent intelligi cum effectu ut res magis valeat quam pereat.*"

In *Robertson v. French* (4 East, 137), Lord Ellenborough says that the terms of a contract "are to be understood in their plain, ordinary, and popular sense, unless they have generally, in respect to the subject-matter (as by the known usage of trade or the like), acquired a peculiar sense distinct from the popular sense of the same words."

In the case of *Shore v. Wilson* (9 Clark and Fennelly, pp. 565, 566), Lord Chief Justice Tindal, speaking of the construction of written instruments, says: "When the words of any written instrument are free from ambiguity in themselves, and where external circumstances do not create any doubt or difficulty as to the proper application to claimants under the instrument, or to the subject-matter to which the instrument relates, such instrument is always to be construed according to the strict, plain, and common meaning of the words themselves, and evidence *dehors* the instrument for the purpose of explaining it according to the surmised or alleged intention of the parties is utterly inadmissible."

In fact, judges, arbitrators, or commissioners, who would disregard such rules, would assume the right of recasting the law or the treaties to suit their own fancy, instead of enforcing the execution of a clear contract. In this instance the two parties agree not to invite this Commission to travel over such ground, and her Majesty's Government are confident that the Commissioners will adhere to the instructions contained in the Washington Treaty, which directs them to estimate the value of the privileges added by article 18 to those already enjoyed under article 1 of the Convention of 1818.

As regards the power of arbitrators, such as the Commissioners in this instance, to interpret terms of treaties, Hertslet's *Treaties*, vol. 3, p. 518, contain the following precedent:

Great Britain and the United States having referred a difficulty, growing out of the Treaty of Ghent (1814), to the arbitration of the Emperor of Russia, to interpret the *intentions* of the parties as contained in an article of that treaty, his Imperial Majesty stated that he considered himself bound "strictly to adhere to the grammatical interpretation of article first," &c. And, on a further reference to his Majesty (same vol., p. 521), the Emperor was of opinion that the question could only be decided according to the literal and grammatical meaning of article 1 of the Treaty of Ghent. A notice of this decision is to be found in Lawrence's 2d edition of *Wheaton*, pp. 495, 496.

The Emperor of Russia, in dealing with this question, acted in accordance with the rules laid down in *Phillimore's International Law*, vol. 2, p. 72, as follows: "LXIX. *Usual interpretation* is, in the case of treaties, that meaning which the practice of nations has affixed to the use of certain expressions and phrases, or to the conclusions deducible from their omissions, whether they are or are not to be understood by necessary implications. A clear usage is the best of all interpreters between nations, as between individuals; and it is not legally competent to either nation or party to recede from its verdict." And at p. 73 the same author says: "The principal rule has already been adverted to, namely, to follow the ordinary and usual acceptations, the plain and obvious meaning of the language employed. This rule is, in fact, inculcated as a

cardinal maxim of interpretation equally by civilians and by writers on international law."

The interpretation contended for by the United States Government requires that we should, in effect, insert the words, "of the shore," in the article itself, as understood although not expressed, either before the words "of any of the coasts, bays, creeks, or harbors," &c., as necessary to make those words operative, or as authorized by usage; or before the words "bays, creeks, or harbors," as demanded by the context, and indispensable to prevent a conflict with other provisions of the treaty.

Such an interpretation, however, is, in the first place, not required to make the words "of any of the coasts" operative. Assuming that we should be justified in applying to the language of the treaty the decisions of the admiralty courts of the United States, where any words have received a judicial interpretation, the treaty being a contract according to the law of nations, and the admiralty courts in the United States being tribunals which administer that law, we find that the term "coast" has received a judicial interpretation expressly with reference to territorial jurisdiction; and that, according to that interpretation, the word "coasts" signifies "the parts of the land bordering on the sea, and extending to low-water mark;" in other words, "the shores at low low water."

The question was formally taken into consideration in the year 1804, in the case of the "Africaine," a French corvette, captured by a British privateer off the bar of Charleston, and on the outside of the Rattlesnake Shoal, which is four miles at least from land. (Bee's Admiralty Reports, p. 205.) On this occasion, the commercial agent of the French Republic claimed the corvette to be restored as captured within the jurisdiction of the United States; and it was contended in argument, in support of the claim, that the term "coasts" included also the shoals to a given distance; and that all geographers and surveyors of sea-coasts understood by the term "coasts" the shoals along the land. Mr. Justice Bee, however, who sat in the court of admiralty in Charleston, overruled this argument; and after observing that the interpretation of coasts in the large sense of the word might possibly be correct in a *maritime* point of view, decided that "coasts," in reference to *territorial jurisdiction*, is equivalent to shores, and must be construed to mean "the land bordering on and washed by the sea extending to low-water mark."

That the words "shores" and "coasts" are equivalent terms, according to the common sense of these terms in the jurisprudence of the United States, may be gathered from the language of various acts of Congress. For instance, the revenue act of 1799 (Laws of the United States, vol. iii, p. 136) assigns districts to the collectors of revenue, whose authority to visit vessels is extended expressly to a distance of four leagues from the coast; and the districts of these collectors, in the case of the Atlantic States, are expressly recited as comprehending "all the waters, shores, bays, harbors, creeks, and inlets" within the respective States. This act of Congress has also received a judicial interpretation, according to which the authority of revenue officers to visit vessels is held to extend over the high seas to a distance of four leagues from the shore of the mainland. Again, the judiciary act of June, 1794, uses the words "coasts" and "shores" not as alternative, but as equivalent terms according to judicial decisions on this very point, when it speaks of the "territorial jurisdiction of the United States extending a marine league from the 'coasts' or 'shores' thereof."

It would thus appear that it is not necessary to understand the word "shore" before "coasts" in order that the latter word should be fully intelligible. It remains to consider whether such an understanding would be authorized by usage on the principle laid down by Pothier: "L'usage est d'une si grande autorité pour l'interprétation des conventions, qu'on sousentend dans un contrat les clauses qui sont d'usage, quoiqu'elles ne soient pas exprimées." (Obligations, No. 95.)

No such usage, however, of nations prevails, applicable to the term "coasts." Islands, indeed, which are adjacent to the land, have been pronounced by Lord Stowell to be natural appendages of the coast on which they border, and to be comprised within the bounds of territory. (The Anna, 5 Robinson's Reports, p. 385.) The assertion, therefore, of an usage to understand the word "shore" before "coasts" in treaties, would tend to limit the bounds of territorial jurisdiction allowed by Lord Stowell in the case just cited, in which a question was involved to which the United States Government was a party, and in favor of whose claim, on the ground of violated territory, Lord Stowell pronounced.

It remains next to consider what is the true construction of the expressions within three marine miles of any of the "bays, creeks, or harbors." That the words "bays," "creeks," and "harbors" have all and each a distinct sense, separate from and supplemental to the word "coasts," to which effect must be given, where there are reciprocal rights and obligations growing out of the treaty in which these words have been introduced, is consonant with the rules for interpreting contracts, which have been dictated by right reason, and are sanctioned by judicial decisions. Mr. Justice Story may be cited as an authority of the highest eminence, who has recognized and applied this principle in construing a statute of the United States. "The other words," he says, "descriptive of place in the present statute (Statute 1825, c. 276, s. 22), which declare that 'if any person or persons on the high seas, or in any arm of the sea, or in any river, haven, creek, basin, or bay, within the admiralty jurisdiction of the United States, and out of the jurisdiction of any particular State,' &c., give great additional weight to the suggestion that the 'high seas' meant the open, uninclosed ocean, or that portion of the sea which is without the *fauces terra* on the sea-coast, in contradistinction to that which is surrounded or inclosed between narrow headlands or promontories; for if the 'high seas' meant to include other waters, why should the supplemental words, 'arm of the sea, river, creek, bay,' &c., have been used?" (United States v. Grush, 5 Mason's Admiralty Reports, p. 298.)

This view of Mr. Justice Story is in accordance with Pothier's rule, "Lorsqu'une clause est susceptible de deux sens, on doit plutôt l'entendre dans celui dans lequel elle peut avoir quelque effet que dans celui dans lequel elle n'en pourrait avoir aucun." (Obligations, No. 92.)

The word "bay" itself has also received a plain and positive meaning in a judicial decision of a most important case before the Supreme Court of the United States, upon the construction of the 8th section of the act of 1790, cap. 9: A murder had been committed on board the United States ship of war Independence, lying in Massachusetts Bay, and the question was whether any court of the State of Massachusetts, or only the circuit court of the United States, as a court of admiralty and maritime jurisdiction, had jurisdiction over a murder committed in such a bay. Chief Justice Marshall, in delivering the opinion of the court, defined "bays" to be "*inclosed parts of the sea.*" (United States v. Bryan, 3 Wheaton's Reports, p. 387.)

Again, Mr. Justice Story, in a question of indictment for assault with intent to kill, under the crimes statute of 1825, cap. 276, sec. 22, which declares "that if any person or persons upon the high seas, or in any arm of the sea, or in any river, haven, creek, basin, or bay, within the admiralty jurisdiction of the United States, and out of the jurisdiction of any particular State, on board any vessel, shall commit an assault," &c., decided that the place where the murder was committed (the vessel lying at such time between certain islands in the mouth of the Boston River) was an arm of the sea.

"An arm of the sea," he further said, "may include various description of waters, where the tide ebbs and flows. It may be a river, harbor, creek, basin, or bay." (United States v. Grush, 5 Mason, 299.)

It would thus appear that the word "bay" has received a positive definition as a term of jurisprudence, which is in accordance with the common use of the term in text-books on the law of nations, which invariably speak of "bays" as "*portions of sea inclosed within indents of coasts,*" and not as indents of coast.

Assuming, therefore, as established beyond reasonable doubt, that the word "bay" signifies an arm or elbow of the sea inclosed within headlands or peaks, and not an indent of the coast, we may consider what is the true intention of the expression "within three marine miles of a bay." Are such miles to be measured from the outer edge or chord of the bay, or from the inner edge or arc of the bay? In the first place it may be observed, that the inner edge or arc of a bay touches the coast, and if the distance is to be measured from the shore of the bay, the word "bay" itself has virtually no distinct signification from "coast," and has no supplemental force; *prima facie*, therefore, this interpretation does not recommend itself on the grounds already stated.

Again, the interpretation which is given to the measure of distance from bays must be given to the measure of distance from creeks and harbors, both of which, by the municipal law of the United States, equally as of Great Britain, are *infra corpus comitatus*, and whose waters are subject to the provisions of the municipal law precisely as the shores of the land itself. But it may assist in determining this question to keep in mind the rule that in contracts "on doit interpréter une clause par les autres clauses contenues dans l'acte, soit qu'elles précèdent ou suivent." (Pothier, *Obligations*, No. 96.) In other words, a subsequent clause may serve to interpret a former clause, if the latter be at all ambiguous. Accordingly, we find the renunciation of the liberty to fish within three marine miles of any of the bays, creeks, or harbors of His Britannic Majesty's dominions followed by the *proviso* that American fishermen shall be permitted to enter such bays and harbors for certain specified purposes other than taking fish. In other words, they may prosecute their voyage for other purposes than fishing *within the entrance* of any bay or harbor, but may not take fish within three marine miles of any bay or harbor, *i. e.*, within three marine miles of the *entrance* of any bay or harbor. If this interpretation be not adopted, the *proviso* would be absurd; for if American fishermen are *implicitly* permitted to fish within three marine miles of the *shore* of any bay or harbor, they are permitted to *enter* such bay or harbor, if the breadth of the mouth be more than six miles, and the distance of the head of the bay or harbor from the entrance be more than three miles, for another purpose than for the purpose of shelter, or of repairing damages, or of purchasing wood, or of obtaining water.

But the convention expressly says, "*for no other purpose whatever.*" If, therefore, they cannot *enter* any bay or harbor for the purpose of

prosecuting their occupation of fishing, it cannot be intended that they should be allowed to fish within three marine miles of the *shore* of any bay or harbor, as the two provisions would be inconsistent. Accordingly, as the question resolves itself into the alternative interpretation of *shore* or *entrance*, it follows that the correct interpretation which makes the language of the entire article consistent with itself is within three marine miles of the *entrance* of any bay, such entrance or mouth being, in fact, *part of the bay itself*, and the bay being approachable by fishing vessels only in the direction of the mouth or entrance.

That a bay of sea-water wider than six miles at its mouth may be within the body of a county is laid down by Lord Hale in his treatise *De Jure Maris et Brachiorum ejusdem* (Hargrave's *Tracts*, chapter 4): "An arm or branch of the sea which lies within the *fauces terre*, where a man may reasonably discern between shore and shore, is, or at least may be, within the body of a county." This doctrine has been expressly adopted by Mr. Justice Story in *De Lovio v. Boit* (2 Gallison's *Reports*, p. 426, 2d ed.), in which, to use the language of Mr. Wheaton's argument in *United States v. Bevans* (3 Wheaton's *Reports*, p. 358), "all the learning on the civil and criminal jurisdiction of the admiralty is collected together." There is, consequently, no doubt that the jurisdiction of the municipal law over bays is not limited to bays which are less than six miles in breadth or three miles in depth, since the general rule is, as was observed by the same eminent judge in *United States v. Grush* (5 Mason, p. 300): "That such parts of rivers, arms, and creeks of sea, are deemed to be within the bodies of counties, where persons can see from one side to the other."

That the jurisprudence of the United States has recognized the principle of courts of municipal law exercising jurisdiction over bays at a distance more than three miles from the shore, is shown by the decision of the Supreme Court in the case of *Church v. Hubbard*. (2 Cranch's *Reports*, p. 187.) In this case an American brigantine, the *Adroira*, when at anchor in the Bay of Para on the coast of Brazil, and four or five leagues from Cape Paxos, was seized and condemned by the Portuguese authorities for a breach of the laws of Portugal on a matter of illicit trade. Chief Justice Marshall, in delivering the opinion of the court, said, "Nothing is to be drawn from the laws or usages of nations which proves that the seizure of the *Aurora* by the Portuguese Government was an act of lawless violence."

The same principle was also involved in the opinion of the Attorney General of the United States upon the seizure of the British vessel *Grange* by a French frigate within the Bay of Delaware, and which was accordingly returned to the owners. In his report to the United States Government (14 May, 1793), the Attorney General observed, "that the *Grange* was arrested in the Delaware, *within the capes*, before she had reached the sea," that is, in that part of the waters of the Delaware which is called *the Bay of Delaware*, and which *extends to a distance of sixty miles within the capes*. It is worthy of remark that the Bay of Delaware is not within the body of a county, its northern headland, Cape May, belonging to the State of New Jersey in property and jurisdiction, and its southern headland, Cape Henlopen, being part of the State of Delaware, yet the whole bay was held to be American territory.

The same principle was also involved in the judgment of the Supreme Court of the United States in the case of *Martin and others v. Waddell* (16 Peters' *Reports*, 367), in which it was agreed on all sides that the prerogative of the Crown prior to the American Revolution extended

over all bays and arms of the sea, from the river St. Croix to the Delaware Bay.

Again, in the report of the committee of Congress (November 17, 1807) on the affair of the Little Belt, it was maintained that the British squadron had anchored *within the capes of Chesapeake Bay and within the acknowledged jurisdiction of the United States*, whilst it seems that the alleged violation of territory had taken place at a distance of three leagues from Cape Henry, the southern headland of the Bay of Chesapeake.

This assertion of jurisdiction was in accordance with the instructions sent May 17, 1806, from Mr. Madison to Messrs. Monroe and Pinckney, according to which it was to be insisted that the extent of the neutral immunity should correspond with the claims maintained by Great Britain around her own territory; and that no belligerent right should be exercised within the chambers formed by headlands, or anywhere at sea, within the distance of four leagues, *or from a right line from one headland to another*.

What those claims were, as maintained by Great Britain, may be gathered from the doctrine laid down by Sir Leoline Jenkins in his report to His Majesty in Council December 5, 1665 (*Life of Sir Leoline Jenkins*, vol. ii, p. 726), in the case of an Ostend vessel having been captured by a Portuguese privateer about four leagues west of Dover, and two Dutch leagues from the English shore, in which case a question arose whether the vessel had been taken within one of the King of England's chambers, *i. e.*, within the line (a straight one having been drawn) from the South Foreland to Dungeness Point, on which supposition she would have been under the protection and safeguard of the English Crown.

The same eminent judge, in another report to the King in Council (vol. ii, p. 732), speaks of one of those recesses commonly called "Your Majesty's chambers," being bounded by a straight line drawn from Dunemore, in the Isle of Wight, to Portland (according to the account given of it to the admiralty in 1664). He says, "It grows very narrow westward, and is scarce in any place four leagues broad, I mean from any point of this imaginary line to the opposite English shore."

And in a third report, October 11, 1675 (vol. ii, p. 780), he gives his opinion that a Hamburg vessel captured by a French privateer should be set free, upon a full and clear proof that she was within one of "Your Majesty's chambers at the time of seizure, which the Hamburger in his first memorial sets forth as being eight leagues at sea over against Harwich."

This doctrine is fully in accordance with the text-books. Thus Azuni writes in his *Droit Maritime de l'Europe*, chap. ii, art. 3, § 3: "Les obligations relatives aux ports sont également applicables aux baies et aux golfes, attendu qu'ils font aussi partie de la souveraineté du gouvernement dans la domination et le territoire duquel ils sont placés, et qui les tient également sous sa sauvegarde: en conséquence, l'asile accordé dans une baie ou dans un golfe, n'est pas moins inviolable que celui d'un port, et tout attentat commis dans l'un comme dans l'autre, doit être regardé comme une violation manifeste du droit des gens." Valin, *Comment. à l'Ordonnance de France*, tit. "Des Rades," art. i, may be cited in confirmation of this doctrine.

The words used in the 1st Article of the Convention of 1818 are, "On the coast of Newfoundland, on the shores of the Magdalen Islands, on the coasts, bays, harbors, and creeks from Mount Joy," &c.

The word "on" is thus used as applicable to shores, coasts, bays, creeks, and harbors, and the United States renounce any liberty to take,

dry, or cure fish on or within three marine miles of any of the coasts, bays, creeks, or harbors.

It is admitted that the liberty to fish is renounced within three miles of the coasts. If the contention of the United States, that this renunciation applies only to a specified distance from the shores of the coasts, bays, creeks, and harbors, and is to be ascertained by a line following the bays, creeks, and the indents thereof at a distance of three miles, be right, then shores, or coasts if synonymous with shores, is the only necessary word, and the words, "bays, creeks, and harbors," are without meaning—a construction which would be contrary to the rule which requires that effect be given to every word.

The word "bay," then, must have a meaning.

The distance, therefore, from headland to headland ought not and cannot be confined to a measure of six miles in order to give exclusive dominion within the bay formed by the headlands.

The general principle is that navigable waters included in bays between two headlands belong to the sovereign of the adjoining territory as being necessary to the safety of the nation and to the undisturbed use of the neighboring shores. (Puffendorf, b. 3, c. 5; Vattel, b. 1, ch. 33.)

The difficulty of limiting the extent to which this privilege should be carried is thus stated by Azuni:

It is difficult to draw any precise or determinate conclusion amidst the variety of opinions as to the distance to which a state may lawfully extend its exclusive dominion over the sea adjoining its territories and beyond those portions of the sea which are embraced by harbors, gulfs, bays, &c., and estuaries, and over which its jurisdiction unquestionably extends. (Azuni on the Maritime Laws of Europe, 1, p. 206.)

After commenting on this passage of Azuni, which he cites, Kent says:

Considering the great extent of the line of the American coasts, we have a right to claim for fiscal and defensive regulations a liberal extension of maritime jurisdiction, and it would not be unreasonable, as I apprehend, to assume, for domestic purposes connected with our safety and welfare, the control of the waters on our coasts, though included within lines stretching from quite distant headlands, as, for instance, from Cape Ann to Cape Cod, and from Nantucket to Montauk Point, and from that point to the cape of the Delaware, and from the south cape of Florida to the Mississippi. It is certain that our government would be disposed to view with some uneasiness and sensibility, in the case of war between some other maritime powers, the use of the waters of our coast far beyond the reach of cannon shot, as cruising ground for belligerent purposes.

Chancellor Kent therefore considers that some distance between the headlands of more than six miles would properly be insisted on by the United States for securing the objects above mentioned, the safety of the territory, and other lawful ends.

The right of exclusive fishing is undoubtedly a lawful end. (Vattel, b. 1, c. 23.) And where the nation has an exclusive right it is entitled to keep the exercise of that right in its own power, to the exclusion of others.

In the Convention of 1818 no limited construction was put upon the word "bay." The treaty employs as distinct terms the words "coasts, bays, creeks, and harbors." "Bay," therefore, should be taken, in the plain and ordinary sense of the term, to mean a portion of the sea inclosed between headlands, which, together with the shores within them, belong to the same nation.

The entrance to this bay is marked or ascertained by a line drawn from headland to headland, whatever be the depth of the bay, and though the line drawn from headland to headland exceed six marine miles.

The United States renounced the right to take fish in such bays. The Treaty of Washington, 1871, frees them from such renunciation. The restriction or exclusion is altogether removed. The case of the *Queen vs. Keyn* (L. R. 2 Ex. Div. 63), so much relied on in the Answer and Brief of the United States, affords no support whatever to the position there taken. The question involved in that case was whether or not a foreigner commanding a foreign vessel could legally be convicted of manslaughter committed whilst sailing by the *external coast of England*, within three miles from the shore, in the prosecution of a voyage from one foreign port to another.

The court, by a majority of seven judges to six, held the conviction bad, on the ground that the jurisdiction of the common-law courts only extended to offenses committed within the realm, and that at common law such realm did not extend on the external coasts beyond low-water mark. None of the judges, however, doubted that Parliament had full power to extend the laws of the realm to a zone of three miles around the outer coast if it saw fit so to do. The Lord Chief Justice of England, by whose casting judgment the conviction was quashed, not only guarded himself expressly against being understood as throwing any doubt whatever upon the jurisdiction of the courts over inland or territorial waters, but emphatically affirmed such jurisdiction. "But," says he (p. 162), "only so much of the land of the outer coast as was uncovered by the sea, was held to be within the body of the adjoining county. If an offense was committed in a bay, gulf, or estuary, *inter fauces terræ*, the common law would deal with it because the parts of the sea so circumstanced were held to be within the body of the adjacent county or counties; but along the coast, on the external sea, the jurisdiction of the common law extended no farther than to low-water mark." Again, at p. 197, he thus expresses himself: "To come back to the subject of the realm, I cannot help thinking that some confusion arises from the term 'realm' being used in more than one sense. Sometimes it is used, as in the statutes of Richard II, to mean the land of England *and the internal sea within it*, sometimes as meaning whatever the sovereignty of the Crown of England extended or was supposed to extend over. When it is used as synonymous with territory, I take the true meaning of the term 'realm of England' to be the territory to and over which the common law of England extends. In other words, all that is within the body of any county, to the exclusion of the high seas, which come under a different jurisdiction only because they are not within any of those territorial divisions into which, among other things, for the administration of the law, the kingdom is parceled out. At all events I am prepared to abide by the distinction taken in the statutes of Richard II, between the realm and the sea." This clearly shows that as far back as the time of Richard II, beyond which legal memory is not permitted to run, the realm of England was known and understood to include within its bounds those inland waters which were inclosed from the high seas between headlands.

The Answer of the United States (p. 5) quotes with approbation the strong condemnatory language of the Lord Chief Justice, and holds it out to the Commissioners and the world as applicable to the contention of Great Britain in this matter. If the language was really so applied, it might be considered as damaging to the case of Great Britain, but if it has no reference to any question now before the Commission, then it is submitted that its presence in the Answer is calculated to mislead. In the course of his judgment, Sir Alexander Cockburn, referring to claims made by England centuries ago, not merely to exclusive domin-

ion over the four seas, but to the right to preserve the peace of the King in all seas, and even to treat as pirates the crews of those foreign vessels which refused to strike their colors to a King's ship on any sea, proceeds as follows (pp. 174, 175): "Venice, in like manner, laid claim to the Adriatic, Genoa to the Ligurian Sea, Denmark to a portion of the North Sea. The Portuguese claimed to bar the ocean route to India and the Indian seas to the rest of the world, while Spain made the like assertion with reference to the West. All these vain and extravagant pretensions have long since given way to the influence of reason and common sense." The remainder of the passage quoted in the Answer is to be found at p. 196 of the Report, where referring to the jurisdiction of the admiral, which extended over the whole ocean as regards British ships, and to the reasoning of some older authorities which sought from that circumstance to extend the realm of England over the whole ocean, the Lord Chief Justice says: "These assertions of sovereignty were manifestly based on the doctrine that the narrow seas are part of the realm of England. But that doctrine is now exploded. Who at this day would venture to affirm that the sovereignty thus asserted in those times now exists? What English lawyer is there who would not shrink from maintaining, what foreign jurist who would not deny, what foreign government which would not repel such a pretension?"

In what possible way this language can be made to bear upon the present inquiry, Her Majesty's Government are at a loss to understand.

Sir Robert Phillimore, one of the judges who agreed with the Lord Chief Justice in the conclusion that the conviction ought not to stand, was equally careful to put the consideration of the law governing bays and inland waters out of the case. He says (p. 71): "The question as to dominion over portions of the seas inclosed within headlands or contiguous shore such as the King's chambers, *is not now under consideration.*

The King's chambers referred to by Sir Robert Phillimore are themselves well-known bays or inland waters on the English coast, inclosed within headlands, many of them as large or larger at the mouths than are the Bays of Miramichi or Chaleurs.

It is confidently claimed by Her Majesty's Government that the case of the *Franconia*, so far from affording any support to the Answer of the United States, is an authority in favor of the right of Her Majesty to exercise sovereign and exclusive jurisdiction over all "bays" and other inland waters lying on the coast of British America inclosed with headlands, be the distance between such headlands what it may.

A subsequent case directly in point and containing an interpretation of the *very word in the very instrument* now under discussion, has been decided by the judicial committee of the privy council, the highest appellate court in the realm in relation to all British colonial matters, as lately as the 14th February, 1877. The case is that of *The Direct United States Cable Company (Limited)*, appellants, v. *The Anglo-American Telegraph Company (Limited)*, and others, respondents, reported in the Law Reports, Appeal Cases, vol. 2, p. 394. The suit was one in which the respondent company had obtained an injunction against the appellant company restraining them from laying a telegraph cable in Conception Bay, Newfoundland, and thereby infringing rights granted by the legislature of that island to the respondent company. The appellant company contended that Conception Bay (which is rather more than twenty miles wide at its mouth and runs inland between forty and fifty miles) was not British territorial waters, but a part of the high seas. The

buoy and cables complained of were laid within the bay at a distance of more than three miles from shore. The contention of the respondent company was not sustained, and the injunction was retained. The judgment of the judicial committee was delivered by Lord Blackburn, and the attention of the Commission is directed to the following quotation from the judgment, which, so far as judicial interpretation can affect that object, must be held to set the question at rest :

Before proceeding to discuss the second question, it is desirable to state the facts which raise it.

Conception Bay lies on the eastern side of Newfoundland, between two promontories, the southern ending at Cape St. Francis, and the northern promontory at Split Point. No evidence has been given, nor was any required, as to the configuration and dimensions of the bay, as that was a matter of which the court could take judicial notice.

On inspection of the admiralty chart, the following statement, though not precisely accurate, seems to their lordships sufficiently so to enable them to decide the question :

The bay is a well-marked bay, the distance from the head of the bay to Cape St. Francis being about forty miles, and the distance from the head of the bay to Split Point being about fifty miles. The average width of the bay is about fifteen miles, but the distance from Cape St. Francis to Split Point is rather more than twenty miles.

The appellants have brought and laid a telegraph cable to a buoy more than thirty miles within this bay. The buoy is more than three miles from the shore of the bay, and in laying the cable, care has been taken not at any point to come within three miles of the shore, so as to avoid raising any question as to the territorial dominion over the ocean within three miles of the shore. Their lordships therefore are not called upon to express any opinion on the questions which were recently so much discussed in the case of *The Queen v. Keyn* (the *Franconia* case).

The question raised in this case, and to which their lordships confine their judgment, is as to the territorial dominion over a bay of configuration and dimensions such as those of Conception Bay above described.

The few English common-law authorities on this point relate to the question as to where the boundary of counties ends and the exclusive jurisdiction at common law of the court of admiralty begins, which is not precisely the same question as that under consideration : but this much is obvious, that, when it is decided that any bay or estuary of any particular dimensions is or may be a part of an English county, and so completely within the realm of England, it is decided that a similar bay or estuary is or may be part of the territorial dominions of the country possessing the adjacent shore.

The earliest authority on the subject is to be found in the grand abridgment of Fitzherbert "*Corone*, 399," whence it appears that in the 8 Edward II, in a case in chancery (the nature and subject matter of which does not appear), Staunton, justice, expressed an opinion on the subject. There are one or two words in the common printed edition of Fitzherbert which it is not easy to decipher or translate, but subject to that remark this is a translation of the passage : "*Nota per Staunton, justice, that that is not sañce [which Lord Coke translates 'part'] of the sea where a man can see what is done from one part of the water and the other, so as to see from one land to the other ; that the coroner shall come in such case and perform his office, as well as coming and going in an arm of the sea, there where a man can see from one part of the other of the [a word not deciphered], that in such a place the country can have conu- sance, &c.*"

This is by no means definite, but it is clear Staunton thought some portions of the sea might be in a county, and within the jurisdiction of the jury of that county, and at that early time, before cannon were in use, he can have had in his mind no reference to cannon-shot.

Lord Coke recognizes this authority. 4 *Institute*, 140, and so does Lord Hale. The latter, in his treatise "*De Jure Maris*," part I, cap. 4, uses this language : "That arm or branch of the sea which lies within the '*fauces terræ*,' where a man may reasonably discern between shore and shore, is, or at least may be, within the body of a county, and therefore within the jurisdiction of the sheriff or coroner. Edward II, *Corone*, 399."

Neither of these great authorities had occasion to apply this doctrine to any particular place, nor to define what was meant by seeing or discerning. If it means to see what men are doing, so, for instance, that eye-witnesses on shore could say who was to blame in a fray, on the waters, resulting in death, the distance would be very limited ; if to discern what great ships were about, so as to be able to see their manoeuvres, it would be very much more extensive ; in either sense it is indefinite. But in *Regina v. Cunningham*, (Bells C. C., 86), it did become necessary to determine whether a particular spot in the Bristol Channel, on which three foreigners on board a foreign ship

had committed a crime, was within the county of Glamorgan, the indictment having, whether necessarily or not, charged the offense as having been committed in that county.

The Bristol Channel, it is to be remembered, is an arm of the sea dividing England from Wales. Into the upper end of this arm of the sea the river Severn flows. Then the arm of the sea lies between Somersetshire and Glamorganshire, and afterward between Devonshire and the counties of Glamorgan, Carmarthen, and Pembroke. It widens as it descends, and between Port Eynon Head, the lowest point of Glamorganshire, and the opposite shore of Devon, it is wider than Conception Bay; between Hartland Point, in Devonshire, and Pembrokeshire it is much wider. The case reserved was carefully prepared. It describes the spot where the crime was committed as being in the Bristol Channel, between the Glamorganshire and Somersetshire coasts, and about ten miles or more from that of Somerset. It negated the spot being in the river Severn, the mouth of which, it is stated, was proved to be at King's Road, higher up the channel, and that was to be taken as the finding of the jury. It also showed that the spot in question was outside Penarth Head, and could not, therefore, be treated as within the smaller bay formed by Penarth Head and Lavernock Point. And it set out what evidence was given to prove that the spot had been treated as part of the county of Glamorgan, and the question was stated to be whether the prisoners were properly convicted of an offense within the county of Glamorgan.

The case was much considered, being twice argued, and Chief Justice Cockburn delivered judgment, saying: "The only question with which it becomes necessary for us to deal is whether the part of the sea on which the vessel was at the time when the offense was committed forms part of the body of the county of Glamorgan, and we are of opinion that it does. The sea in question is part of the Bristol Channel, both shores of which form part of England and Wales, of the county of Somerset on the one side and the county of Glamorgan on the other. We are of opinion that, looking at the local situation of this sea, it must be taken to belong to the counties respectively by the shores of which it is bounded; and the fact of the Holms, between which and the shore of the county of Glamorgan the place in question is situated, having always been treated as part of the parish of Cardiff, and as part of the county of Glamorgan, is a strong illustration of the principle on which we proceed, namely, that the whole of this inland sea between the counties of Somerset and Glamorgan is to be considered as within the counties by the shores of which its several parts are respectively bounded. We are therefore of opinion that the place in question is within the body of the county of Glamorgan." The case reserved in Cunningham's case incidentally states that it was about ninety miles from Penarth Roads (where the crime was committed) to the mouth of the channel, which points to the headlands in Pembroke and Hartland Point, in Devonshire, as being the fauces of that arm of the sea. It was not, however, necessary for the decision of Cunningham's case to determine what was the entrance of the Bristol Channel, further than that it was below the place where the crime was committed; and though the language used in the judgment is such as to show that the impression of the court was that at least the whole of that part of the channel between the counties of Somerset and Glamorgan was within those counties, perhaps that was not determined. But this much was determined, that a place in the sea, out of any river, and where the sea was more than ten miles wide, was within the county of Glamorgan, and consequently, in every sense of the words, within the territory of Great Britain. It also shows that usage and the manner in which that portion of the sea had been treated as being part of the county was material, and this was clearly Lord Hale's opinion, as he says, not that a bay is part of the county, but only that it may be.

Passing from the common law of England to the general law of nations, as indicated by the text-writers on international jurisprudence, we find an universal agreement that harbors, estuaries, and bays landlocked belong to the territory of the nation which possesses the shores round them, but no agreement as to what is the rule to determine what is "bay" for this purpose.

It seems generally agreed that where the configuration and dimensions of the bay are such as to show that the nation occupying the adjoining coasts also occupies the bay it is part of the territory; and with this idea most of the writers on the subject refer to defensibility from the shore as the test of occupation; some suggesting, therefore, a width of one cannon shot from shore to shore, or three miles; some a cannon shot from each shore, or six miles; some an arbitrary distance of ten miles. All of these are rules which, if adopted, would exclude Conception Bay from the territory of Newfoundland, but also would have excluded from the territory of Great Britain that part of the Bristol Channel which in *Regina v. Cunningham* was decided to be in the county of Glamorgan. On the other hand, the diplomatists of the United States in 1793 claimed a territorial jurisdiction over much more extensive bays, and Chancellor Kent in his Commentaries, though by no means giving the weight of his authority to this claim, gives some reasons for not considering it altogether unreasonable.

It does not appear to their lordships that jurists and text-writers are agreed what

are the rules as to dimensions and configurations which, apart from other considerations, would lead to the conclusion that a bay is or is not a part of the territory of the state possessing the adjoining coasts; and it has never, that they can find, been made the ground of any judicial determination. If it were necessary in this case to lay down a rule, the difficulty of the task would not deter their lordships from attempting to fulfill it. But in their opinion it is not necessary so to do. It seems to them that, in point of fact, the British Government has for a long period exercised dominion over this bay, and that their claim has been acquiesced in by other nations, so as to show that the bay has been for a long time occupied exclusively by Great Britain, a circumstance which in the tribunals of any country would be very important. And, moreover (which in a British tribunal is conclusive), the British legislature has by acts of Parliament declared it to be part of the British territory, and part of the country made subject to the legislature of Newfoundland.

To establish this proposition it is not necessary to go further back than to the 59 Geo. III, c. 38, passed in 1819, now nearly sixty years ago.

There was a convention made in 1818 between the United States and Great Britain relating to the fisheries of Labrador, Newfoundland, and His Majesty's other possessions in North America, by which it was agreed that the fishermen of the United States should have the right to fish on part of the coasts (not including the part of the island of Newfoundland on which Conception Bay lies), and should not enter any "bays" in any part of the coast except for the purposes of shelter and repairing damages, and purchasing wood, and obtaining water, and no other purposes whatever. It seems impossible to doubt that this convention applied to all bays, whether large or small, on that coast, and consequently to Conception Bay. It is true that the convention would only bind the two nations who were parties to it, and, consequently, that though a strong assertion of ownership on the part of Great Britain acquiesced in by so powerful a state as the United States, the convention though weighty is not decisive.

The meaning of the word "bay" being settled, what therefore did the United States renounce when they renounced the right to take fish within three marine miles of any of the coasts, bays, harbors, and creeks?

It is admitted they could not take fish within three marine miles of the coast. It has been shown that they could not fish in the bay. Some right or privileges outside the bay is therefore renounced. But how far outside? The distance is expressly given—three marine miles.

But from what point is this distance to be measured. Not from the shore or coast, for that construction would render the word "bay" superfluous. If any place within the bay had been intended the treaty would have said so. The entrance of the bay must therefore be the point whence the three miles are to be measured. The entrance is defined by the line drawn from headland to headland, and the three miles must be measured seawards from that line which defines and marks the sea limit of the bays, as a corresponding three miles are to be measured from the line or boundary of the shore.

This restriction not to fish within three marine miles of any bay, is of importance in considering the whole argument of the United States.

The restrictions are, fishing in and within three miles of any bay. They are quite distinct in sense and wording. That the United States fishermen might not enter any bay for the purpose of fishing, is made quite distinct by the permission given to enter such bays for other specified purposes; and when the further restriction is added that they are not to take fish within three marine miles of any bay, the conclusion is inevitable that by the Convention of 1818 the United States fishermen were excluded from fishing within three marine miles of the entrance of or line drawn across from the headlands which form the bay.

APPENDIX L.

UNITED STATES EVIDENCE.

No. 1.

MONDAY, August 27.

The Conference met.

JAMES BRADLEY, fisherman, Newburyport, Mass., called on behalf of the Government of the United States, sworn and examined.

By Mr. Trescot:

Question. You are a fisherman, I believe?—Answer. Yes.

Q. You have been fishing for a good many years?—A. Yes.

Q. For how many years?—A. It is about thirty years since I became master of a vessel.

Q. What sort of fishing have you prosecuted?—A. Mackerel fishing principally.

Q. Whereabouts?—A. Well, I fished in Bay St. Lawrence until the last eight years. I had not been there fishing since then till this year. I am from there now.

Q. You have been fishing in Bay St. Lawrence over twenty years?—A. Yes.

Q. As far as your experience goes, where were the large catches of mackerel made by you in Bay St. Lawrence?—A. On Banks Bradley and Orphan and what we call the west shore, along the Canada shore, the land just being in sight.

Q. How far out?—A. From 12 to 15 miles, and from that distance to 25 miles.

Q. Very little fishing was done by you within 3 miles of the shore?—A. Very little. In the fall of the year we did fish a very little inshore.

Q. Have you formed any estimate of the proportion of your catch taken in deep water and the proportion taken within 3 miles of the coast?—A. According to the best of my judgment, I should say I took seven-eighths of them outside of the three-mile limit all the time I was in the bay.

Q. And you think, taking the majority of the fishermen, the bulk of the fleet took that proportion of their fish outside?—A. Well, I don't know, taking the bulk of the fleet, but certainly one-half fished as much as I did outside.

Q. You say you were fishing in the gulf up to within the last 8 years?—A. Yes.

Q. And you went back this year for the first time in 8 years?—A. For the first time.

Q. Did you find a great difference in the fishery?—A. No man could have made me believe there was such a difference between the fishing this present year and what it was 8 years ago, when I left it. The bay fishing is spoiled entirely by keeping vessels out of the bay; that is my opinion, for there is no fish except right along the land, and very few at that, and of very poor quality.

Q. How long have you been in the gulf this year?—A. Four weeks I was in the bay.

Q. And what have you caught this year?—A. 104 barrels I have on board.

Q. What should have been your catch in a good year?—A. 300 barrels in an ordinary year.

Q. You think the fish have not only fallen off in quantity but so in quality?—A. Both in quantity and quality.

Q. During the eight years you were not fishing in the gulf where were you fishing?—A. In American waters.

Q. What sort of fishing had you there?—A. We had good fishing. Our eight years' average was better than any eight years' average I have made in Bay St. Lawrence.

Q. What do you suppose your average was?—A. 1,000 barrels.

Q. With a vessel of what size?—A. We say a schooner this size is just as good as any. The size does not matter so much in our own waters as in Bay St. Lawrence.

Q. What do you suppose is the number of the fleet engaged in mackerel-fishing in American waters?—A. 400 sail.

Q. These vessels are confined to the mackerel-fishing in American waters, and will average from 5 to 6 barrels to the ton?—A. I don't know that. The small vessels catch about as many as the large vessels, because they are nearer the market and go right in and come right out, and do not lose any time.

Q. With regard to your large experience in the mackerel-fishing, is it a profitable business taken by itself?—A. It has not been so for the last 5 or 6 years.

Q. Have you found it pay unless you did something else?—A. No. When we went into Bay St. Lawrence we could not have made it pay except we had done other business with it. We simply put in there three or four months in the summer time when we could not do any other business.

Q. What would you consider a fair profit for a mackerel fisherman as you conducted the business?—A. We could not make anything more than insurance and wear and tear; not anything, really.

Q. And the profits were obtained by running the vessels on other voyages?—A. Yes; and in the winter we generally make \$2,000 by running with fruit into New York.

Q. Among the advantages you had fishing in the gulf, what was the advantage of having the privilege of transshipment?—A. I never considered it any. I followed it for five years, and the result was I lost by it.

Q. What was the object of transshipping?—A. The object in our case was to get a good market, to get the mackerel into market early.

Q. Not so much to make a third fare?—A. The object was to get them to market in good condition so as to get a better cull. When they are two or three months on board a vessel they don't look so well. If they are sent in early you get a better cull, the fish are better quality, and you get more money for them. But I found the expense more than made the difference, and I stopped transshipping on that account.

Q. What was the expense of the transshipment?—A. About \$1.50 per barrel when I transshipped. That is including freight and expenses in Boston.

Q. In your ordinary trips when you were accustomed to fish in the Gulf of St. Lawrence, what was about the annual expenditure, the amount of money you laid out?—A. When I used to land my fish I used to pay out on an average from \$1,000 to \$1,200.

Q. That was for current expenses at the ports?—A. Yes, at the Strait of Canso, where I used to land.

Q. In those days, what was the average number of the fleet that did very much as you did?—A. I don't know that I could make a very good average.

Q. Give an approximate amount, to the best of your judgment.—A. 600 or 700 sail, certainly. I have been in the bay with 900 sail of American vessels, but the number rather diminished along the last years I went there. Everything tended to drive them out of the bay—cutters and one thing and another—and finally I went fishing in our own waters, and did a good deal better.

Q. Judging from your experience in the gulf, and your experience of the American fisheries, you have really no doubt about the value of the fishery on the American coast as compared with the fishery in the gulf?—A. No; not the slightest. It is worth ten times as much as the Gulf of St. Lawrence fishery.

Q. In American waters, where is the bulk of the fish taken?—A. They are taken from 10 to 30 miles from the land; that is where we take most fish. The men who fish most outside get the most fish, both on the American and Canadian shores, except this year.

Q. What is the matter with the fishery on the United States coast this year?—A. The trouble is on account of the bait. The cold east wind in the spring killed all the live bait—the shrimps—and the fish did not come to the surface. There is plenty of mackerel on our coast. I left plenty of fish there, and I would have done better there than in Bay St. Lawrence; and if I had gone back to our coast I would have been \$1,000 better off. I held on, for they told big stories of the quantity of fish; but I have given it a fair trial, and found there was none.

Q. The bait, I believe, is found not only inshore but also outside?—A. It is found offshore just the same as inshore; there is more offshore than inshore as a rule. I know the trouble was caused by the east winds, of which we had a great quantity, killing the bait, for we could not account for it any other way. There was plenty of mackerel south, but when we got on the east coast they did not come to the surface, and that is the reason the fishermen could not catch them.

By Mr. Thomson:

Q. Then, 8 years ago, the fisheries in the gulf were first rate?—A. Eight years ago they were rather slim. I left to-day eight years ago. The cutters drove me out, or rather I cleared out because they made such a row with me.

Q. You did not like to annoy the cutters by staying there?—A. I did not like to be scared to death all the time. I did not care anything about the cutters.

Q. You did not care about the cutters, but you did not want to be scared?—A. I could not tell whether I was 3, 5, 6, or 7 miles from shore. You might appear to be three miles from shore and might not be more than one. The atmosphere is such you cannot judge distances with your eye.

Q. It was impossible to tell whether you were three miles from the shore?—A. You cannot do it.

Q. It is not impossible to tell whether you are one mile or half a mile from the coast?—A. I have seen the time when I was one mile off and I thought I was more than three miles.

Q. You recollect the time when you were one mile off and it looked as if you were three miles off?—A. Yes.

Q. I suppose that was pretty much all the time you fished; you were actually a mile from the shore and the distance looked like three miles?—A. If that is your opinion I am perfectly willing. I tell you facts; you can draw what inference you please. I have stated just exactly, to the best of my judgment, what I did in Bay St. Lawrence, and I tell you just the same and nothing else.

Q. I understood you to say that on many occasions you fished within one mile of the shore when it looked three miles off?—A. I told you I could not judge the distance. I did not refer particularly to fishermen. When I have been making land sometimes I have found myself close inshore and had to tack out.

Q. Did you not tell me you were frequently within one mile of the shore when you believed you were three miles out?—A. Yes; but I did not refer particularly to fishing.

Q. Did you fish during those times when you thought you were three miles off shore and it turned out you were only one mile?—A. No. If I thought I was inside the three miles I would not fish there.

Q. Then I understand that no consideration would have induced you, when in the gulf, to have fished within three miles of the shore?—A. I don't intend to convey any such idea. I would fish wherever I could find them, if no cutters were there.

Q. If the fish were within the three-mile limit you would follow them?—A. I would if there was no cutter there to take me.

Q. Did you do that?—A. I fished off shore and did not pretend to go inshore because I did not do better there. While I perhaps one month might have done better inside, take the months through and I did better outside.

Q. Did you or did you not fish inside the three miles before the end of the eight years?—A. I fished inside three miles because I stated that I caught one-eighth of the mackerel inside the three-mile limit.

Q. Do you swear that you did not catch more than one-eighth within the three-mile limit?—A. I swear that, to the best of my judgment, I did not catch more than one-eighth within the three-mile limit.

Q. Then, in point of fact, you swear positively that the inshore fisheries of the gulf are not nearly so valuable as those away out?—A. They were not when I fished there.

Q. How long did you fish there?—A. Fifteen years.

Q. Ending eight years ago?—A. Nine years this summer.

Q. That would be from 1854 to 1869?—A. I don't remember dates.

Q. You stated that you fished there fifteen years, ending eight years ago?—A. Yes.

Q. Then you fished during the whole of the time of the Reciprocity Treaty, which commenced in 1854?—A. Yes, I fished under that treaty on a license.

Q. During the time the treaty was in force did you not fish inshore as a rule?—A. Inshore when I thought I could catch more fish there.

Q. Did you catch more fish inshore than out?—A. No, I did not catch any more inshore than outside.

Q. Then, as I understand, you did not fish inshore?—A. No, because I did better out.

Q. How did you take your fish?—A. With books.

Q. Not with purse-seines?—A. We had a seine but we never did much with it.

Q. You caught them altogether with books?—A. Yes.

Q. What bait did you use?—A. Pogies and clams.

Q. Where did you get them?—A. We got them from home; some I

bought in Canso, from your people down there, but they are brought there from our shores. I always carried bait for the first trip with me.

Q. What was your average catch each year from 1854 down to 1869?—A. I should think about 600 barrels.

Q. Would that be a fair average catch for each vessel in the fleet?—A. That would be more than an average, a good deal.

Q. You were more lucky than they?—A. I think I was.

Q. What was the size of your vessel?—A. I had vessels of different sizes; I was in several different vessels during that time.

Q. What is the ordinary size?—A. About 100 tons.

Q. And during that time you got 600 barrels per season?—A. Yes.

Q. And other vessels got far less?—A. I don't know. Some did better than I did.

Q. What do you place the average at?—A. I don't know that I could give an average for the whole fleet.

Q. Have you any reason to believe that the majority did far worse than you?—A. I know our vessels did which went from the place I live.

Q. Where do you live?—A. At Newburyport.

Q. How many vessels went from that port?—A. Twenty five sail then.

Q. They all went into the gulf?—A. Yes. I used to get more than they did; and judging from what they caught, I got a good deal more than the average. That is all I have got to go by.

Q. You don't know in regard to the other vessels?—A. No.

Q. Did you ever go to fish in Bay Chaleurs?—A. I never fished but one season in Bay Chaleurs in my life, and that was the season of the licenses.

Q. That would be 1868?—A. I caught 200 barrels outside of Caraquette Bank. That was the only time I fished in Bay Chaleurs.

Q. You never went in before?—A. I have been there to harbor but not to fish.

Q. Where do you take the fish?—A. Outside of Caraquette Bank, four miles from the land.

Q. Inside of Point Miscou?—A. Yes.

Q. How far inside?—A. About 15 miles, I should think.

Q. About 4 miles from land?—A. Yes.

Q. How did you judge the distance that time?—A. I judged by the lay of the land.

Q. At what time did you fish 4 miles from the shore?—A. We carried a patent log and sometimes we ran out and measured the distance so that we could tell the number of miles. That was when the cutters were around.

Q. Why were you afraid of the cutters when you were fishing with a license?—A. I am speaking of the time when there were cutters about.

Q. Why did you not go nearer the shore when you had a license?—A. Because we could not catch as many fish there.

Q. Why did you not try?—A. It would have been no use to have gone inside the Bank. We caught them outside where the fish lay.

Q. Did you ever try inside?—A. I never hauled to inside of the Bank, but if fish had been there vessels would have been inside.

Q. Did you ever go close to the shore to see how much worse the fishing was than the outside fishing?—A. I don't think I ever did.

Q. As a rule, you always caught your fish three or four miles out?—A. Without I saw somebody catching fish inside.

Q. Do you mean in boats?—A. No, in vessels. I might have gone there if I had seen vessels in there.

Q. Were American vessels there?—A. Plenty of English vessels were there.

Q. If you saw a vessel catching fish inshore you would follow in?—A. I did not always follow in, but I have done such a thing.

Q. As a rule, did you fish much inshore?—A. Very little indeed.

Q. I suppose you have fished along Prince Edward Island?—A. I have fished there, but not very much. I know nothing about the inshore fishery of the island.

Q. Take the north side of the island, from North Cape to East Point, do you say the inshore fisheries are comparatively valueless as compared with the outside fisheries?—A. I say they used to be when I went mackerel fishing.

Q. For 15 years you found it so?—A. I found it so right along, year after year. I never fished in there.

Q. Do you say the fish were not there?—A. I don't know anything about the fish when I was not there. I made a point to run from East Cape to North Cape; I never fished inshore of the island.

Q. Shall I be right in stating to the Commission that you have no practical knowledge of the inshore fishery of Prince Edward Island?—A. I have had more this year than ever before.

Q. Will you undertake to say that during the 15 years you were fishing in the Gulf—that is to say, from 1854 to 1869—the inshore fisheries of Prince Edward Island, from North Cape to East Cape, were nothing as compared with the outside fisheries?—A. I don't mean to say anything of the kind.

Q. What did you mean to say about the inshore fishery?—A. I mean to say we used to fish off East Point in the fall of the year, and off shore in the summer time always. We fished also off North Cape; but we did not fish within three miles of the shore.

Q. You never went inside of the three-mile limit?—A. I have said I caught one-eighth part inside of the limits.

Q. Did you fish during those 15 years, during 12 years of which the Reciprocity Treaty was in force, enough inside of the three-mile limit at Prince Edward Island to be able to tell the Commission whether the inshore fishery is worth anything as compared with that outside?—A. It was not worth more than the outside fishery, from my experience.

Q. How do you know that, if you did not go in and try?—A. We had captains go down to the island, take vessels and go and fish where they pleased, and we beat them when they fished inshore and we fished outside. Captain Jacks, of Newburyport, had an island vessel.

Q. You swear that during that time, when you were fishing outside, other captains went in and fished within the three miles along the bight of the island, and you beat them all?—A. They went and fished; I cannot say where.

Q. When I put the question as to your knowledge of the inshore fishery of Prince Edward Island, you put forward the captain's experience; why did you give such an answer as that if you knew nothing about it?—A. I tell you I fished around East Point and around North Cape.

Q. Will you undertake to say that you have any personal knowledge of the fisheries between North and East Capes in the bight of the island within three miles of the shore?—A. I do not think that I have; I have not, within three miles of the shore.

Q. So during the whole of these 15 years you carefully avoided going

within this limit; and during that time you say you lost money?—A. No.

Q. Did you make money?—A. I did very well.

Q. You did very well?—A. Yes.

Q. And so well that you did not think it necessary to go inside the limit. Did you ever fish along the shore of Cape Breton?—A. Yes.

Q. Did you always keep three miles off the shore?—A. No.

Q. You did fish within the three-mile limit?—A. I did sometimes.

Q. As a rule, did you keep three miles off shore, or fish inside that limit?—A. Of course, we kept outside, when we could catch fish out there.

Q. Did you catch fish oftener inside than outside of the three-mile limit?—A. We caught them outside a great deal oftener than inside, for the very reason, I suppose, that the fish were there. If the fish had been inside, we would probably have caught them in there.

Q. Did you state, in answer to Mr. Trescot, that during these 15 years you lost money by fishing in the bay?—A. No, I do not think so.

Q. Did you not state that since that time you have done better by carrying on the American fishery than you did during the whole of these 15 years?—A. Yes, I did.

Q. Then you did not lose money in either case?—A. I lost money one way, if you had a mind to reckon it in that light. I just got about insurance, and wear and tear of the vessel, and pay for the employment of the vessel during three or four months, when we could not do anything else.

Q. In point of fact, you made no money?—A. Reckoning it that way, we did not.

Q. You laid up no money; you only paid for wear and tear?—A. We paid for insurance and interest on the money; and that is every cent which we got out of it; and I could show the books to prove it.

Q. And during the last eight years you have been fishing on the American coast?—A. During the last six years, throwing out the two last years, when I did not make much money, fish being very low in price, we have done first rate there.

Q. On the American coast?—A. Yes. I averaged over \$2,000 a year.

Q. For six years?—A. Yes—previous to the last two years.

Q. Were these six exceptional years, or were they a fair specimen of the fishing on the American coast?—A. Yes; that is, since I followed it.

Q. You are a Newburyport man?—A. Yes.

Q. I presume that you had as much knowledge of the fisheries near your own doors, by reputation and hearsay, as you did of the Gulf of St. Lawrence fisheries before you started to fish in the gulf?—A. I used to fish in the Bay of St. Lawrence altogether.

Q. When you had good fisheries at your own doors, why did you start off to the gulf fisheries?—A. Because we did not know how to catch them, and did not understand making seines so as to catch them.

Q. So you went to the gulf fisheries?—A. The fish in the gulf would bite hooks, and our fish would not do so. The latter are too shrewd to bite hooks; we had to make nets to catch them.

Q. Your fish were too shrewd to take the hook; it was only the unfortunate British fish that could be so gulled?—A. The latter would bite the hook.

Q. And that was what drove you to the gulf fishery?—A. As soon as we understood the making of seines to catch the fish in deep water we did much better on our own coast.

Q. Did I understand you to say that the catch off your own coast was

taken ten miles out from the shore?—A. I should think that three-quarters of what we caught were taken ten miles from land.

Q. You mean off the coast of Maine and Massachusetts?—A. Yes; and all along the coast.

Q. Where did you get the other quarter?—A. We might get them inside of that; but the men who fish outside and stay there get the most fish, I can tell you.

Q. The men who fish outside on the American coast get the most fish?—A. Yes. Those who stop right near the land do not get so many.

Q. The American inshore fisheries, according to your statement, are just a little worse than the British inshore fisheries, while your off-shore fisheries are better than the British off-shore fisheries?—A. I guess they are better now.

Q. This has been the case for the last two years?—A. Yours are good for nothing now. They are not worth sending a vessel down to them.

Q. You allude to our shore fisheries?—A. I mean the fisheries in the bay.

Q. Out in the bay the fisheries are good for nothing?—A. The fishery in the bay is good for nothing.

Q. Your off-shore fishery is first-rate now?—A. I believe that this year is exceptional on account of the bait.

Q. But take the last six or seven years?—A. Taking the last eight years into consideration, it has been good enough. There have been plenty of fish and we have done well there.

Q. And you do not know anything about the off-shore fisheries in the gulf during these years?—A. We had vessels go there from Newburyport every year, but the results were so unsatisfactory—they lost so much money, that lately only three were sent there.

Q. Was this in consequence of their keeping out in the bay?—A. These vessels were fitted out for the bay because they did not understand seining. Vessels were fitted out for the bay, until results were so poor that they were taken off these grounds.

Q. Did you understand that they fished inshore?—A. I do not know where they fished. They fished anywhere. They stated that during the last two years they could not catch fish there except inshore; but I hardly believed it until I came down this year. The fish have been nearer the shore this year than they used to be.

Q. You say that the off-shore fisheries on the American coast are first-rate, while in the gulf the off-shore fisheries are good for nothing?—A. Yes, now, during this present season.

Q. And the inshore fisheries of the gulf are better than the American inshore fisheries?—A. Yes; along the coast more fish are caught with hooks there than on the American coast.

Q. During the last eight years, when you have been making \$8,000 a year, have you fished in your own schooners?—A. I owned part of them.

Q. Have you fished in the same vessel during the whole eight years?—A. No; I have been during the last eight years in the S. C. Noyes and in my present vessel.

Q. Are you the owner of her?—A. I am part owner of her, and also of the S. C. Noyes.

Q. What is the name of your present vessel?—A. The Miantonoma. It is an Indian name.

Q. What is her size?—A. 77 tons and 45-hundredths is her register.

Q. What is the size of the other vessel?—A. 124 tons and 76-hundredths.

Q. These are not the same vessels in which you went to the gulf?—A.

I never went in the gulf in this one until the present year. I always went there in the S. C. Noyes. She is ten years old. I afterwards had this one, which I have now, built.

Q. These were the vessels which you used during the eight years mentioned?—A. Yes.

Q. Which one did you command?—A. I went for two years in this one, when new; and in these two years I made \$6,000 clear money on our own coast. I then never went nigh your waters.

Q. When speaking of fishing on your own coast, you mean that you did so 8 or 10 miles from the shore?—A. I do not know as it was that distance, but I caught three-quarters of the mackerel off shore.

Q. At least three-quarters?—A. I should think I caught at least three-quarters of the fish outside of ten miles from the shore during that time.

Q. Who are the other owners of the vessels with you?—A. I could not tell till I see the papers. There are several owners.

Q. Do I understand you to say that you cannot tell the names of the joint owners of the vessel—that they number several people, and that you cannot remember their names?—A. I cannot remember them—perhaps not the whole of them. There are Hayden, Brown S. Noyes, another Noyes, and Dr. Peevil, &c. Perhaps I cannot remember them all.

Q. Where do these gentlemen live?—A. At West Newport and Newburyport.

Q. They are all alive?—A. Yes.

Q. And all of them are acquainted with the facts which you state, and they are all alive?—A. Yes.

Q. They know all about it?—A. They got the money, and they know all about the catch as well as I do; and they can show you the books for any time during the last 15 years.

Q. Who is the agent?—A. Edward Burwell, of Newburyport. We have got it all in black and white. I don't want you to take my word for it, not a bit.

Q. And he is quite ready to make the same statement?—A. He will show you the figures which will make the same statement.

Q. I think you said there were about 67 vessels in the bay in an answer to Mr. Trescot. What did you say?—A. I said that there were 600 or 700 vessels there, as well as I could judge, about 15 years ago.

Q. In what year was this?—A. I could not pretend to tell the year.

Q. Was it more than eight years ago?—A. O, yes; it was 10, 12, or 13 years ago.

Q. And the owners of all these vessels were still under a delusion regarding the fisheries on the American coast?—A. No. I do say that the Cape Cod vessels always fish on our own coast with hooks, and do first-rate; they do well on Georges, but our fishermen won't go there.

Q. I am speaking of the same ground where you say that during the last two or three years you made \$2,000 or \$3,000 a year, ten or twelve miles out from your coast?—A. They did not think that they could catch fish in deep water with seines. They had not tried it, so they did not know about it; but as soon as this was once tried of course it was a success.

Q. Do they now catch the fish in these waters with purse nets?—A. Yes.

Q. What do they catch in these nets besides mackerel?—A. We do not get much of anything.

Q. You catch nothing but mackerel?—A. We catch pogies and menhaden, and herring, with the mackerel—blue-backs, as we call them.

Q. What are the pogies and menhaden?—A. What we use for bait. We catch them sometimes.

Q. How many do you take at a draught?—A. That varies very much; sometimes the haul is very large and sometimes very small.

Q. Do you save all the fish you thus get?—A. We sometimes catch so many that we cannot save them, and have to let them go; and sometimes we get so many that they let themselves go.

Q. Are they alive or dead when you let them go?—A. They are almost always alive.

Q. Do you mean to say that you do not kill any with the seines?—A. We kill the small mackerel which get meshed in the net; the small being taken with the big ones, of course are killed.

Q. Do you not take a large number of the small fish?—A. We did last season, but never before. Last year the small and large fish were mixed together, and we hauled in a great many of the small ones, which were meshed and killed.

Q. This destroyed them, of course?—A. Of course they were worthless.

Q. And you have not had them back again this year?—A. I tell you we have plenty of fish on our shore if they would only show on the surface. It is not for want of fish that they are not taken.

Q. How do you know?—A. I saw them out south. Bait was found there and plenty of fish were schooling out south this spring.

Q. Do you mean that there was no bait on the coast of Maine—that there were no pogies there?—A. There were pogies enough, but no bait for the mackerel.

Q. Are not pogies bait for the mackerel?—A. The former are a big fish, and the mackerel could not eat them very well, unless they were ground up.

Q. This fish requires to be prepared for bait?—A. Yes.

Q. What was the bait on your coast?—A. This little shrimp bait, of which I spoke.

Q. Is that shrimp found ten miles from the shore?—A. Yes; and fifty miles.

Q. And that bait has failed this year?—A. Yes, entirely on the eastern shore, but not out on the southern shore.

Q. How do you know that it is to be found down south?—A. I was there and saw the fish.

Q. Where did you go?—A. To Cape May and all along down there.

Q. This spring?—A. Yes.

Q. Did you get many fish?—A. We did not get a great many; we obtained a couple of hundred barrels.

Q. Were these not poor mackerel?—A. Yes.

Q. And are not the fish, the number ones, caught in the Gulf of Saint Lawrence, first rate?—A. We now have not got over 20 barrels of number ones on the vessel, and they are nothing but miserable trash.

Q. Have you marked them number one?—A. The inspector marks them. If I could do so, I would mark all the fish number one.

Q. I have no doubt of that.—A. There is no trouble about that.

Q. I have not a shadow of doubt about that.—A. There is no trouble about that.

Q. You would mark them all number ones?—A. Yes.

Q. And they are good for nothing?—A. They are very poor fish, indeed, speaking candidly about them.

Q. And what the inspector will inspect as number ones are trash?—

A. According to the best of my judgment, I should say that about 20 in the 104 barrels I have are fit for number ones, and the rest for number twos.

Q. And these are poor trash?—A. They are of very poor quality.

Q. Did you not say that they were poor trash and good for nothing?—A. I say that they are not fit to eat.

Q. Who are the unfortunate people upon whom you expect to palm them off?—A. People who don't know anything about mackerel. There are plenty of such people in the world, to whom you can sell almost anything.

Q. Are not the inspectors sworn officers?—A. Yes.

Q. And you expect these sworn inspectors to mark them No. 1 although they are such poor trash and not fit to eat?—A. Yes, sir; and they will be marked bay mackerel, not shore mackerel, and people will buy them with that understanding.

Q. Do they understand that No. 1 bay mackerel are fit for nothing?—

A. They are not nearly so good as shore mackerel; we have to sell the former for \$3 or \$4 less, and perhaps \$5 or \$6 less than the latter. I have sold them at \$9 less than ours in the market.

Q. No. 1 bay mackerel is not equal to No. 1 American mackerel?—A. No; but I have got \$3 a barrel more for the former than the latter, when we fished in the bay 15 years ago.

Q. Why is that?—A. I could not tell you.

Q. There was a time when the bay mackerel were better than the American mackerel?—A. Yes; they used to be better than our shore fish; they commanded a better price; but during the last 8 or 10 years it has been quite the reverse; but why this is so is more than I can tell you.

Q. The American fisheries along the coast failed, until within the last year or two, very much?—A. I am not aware that this was the case.

Q. I allude to the inshore fishery on the American coast?—A. I did not know that it had.

Q. You did not know it?—A. No.

Q. Will you swear that this was not the case?—A. I do not know that it was.

Q. And you never heard that it had failed?—A. No.

Q. You did not know it of your own personal experience, and you never heard that it had failed?—A. No.

Q. And you have been a practical fisherman for 15 or 23 years?—A. Yes. That is my business.

Q. And during these 23 years you have no personal knowledge of the American fishery having failed on your coast, and you have never heard of such a thing?—A. I have known that mackerel were awful scarce, as they are in your bay this year, but I know that they were plentiful last year. They were more plentiful on our shore last year than I ever saw them to be in the Bay of St. Lawrence.

Q. Then you have not known, and you never even heard, of the American fishery on your own coasts failing at all?—A. Failing entirely?

Q. Practically failing, and not being worthy of pursuit?—A. It has been more of a failure this year than I ever saw since I went fishing.

Q. Do I understand you to say that during all these years, as far as you are aware, the American fishery on the American coast was about as good as it was during the last two years, and better, of course, than it has been this year; and that you know of no difference in this re-

lation?—A. I know but little about it. I used to go to the Bay of St. Lawrence.

Q. Why did you come up here?—A. I pursued the fishery in the Bay of St. Lawrence, but between Newburyport and Cape Cod the fishermen pursued it along our own shores.

Q. Did you ever see vessels fishing along the American coast?—A. I know that they used to do better there than we did here.

Q. Then why did you not stop and fish there?—A. Because I thought that they could do better there than we could. We had always been accustomed to come here, and we could not go anywhere else, as will be the case with any man when he has got into a habit.

Q. And you kept this losing business up; not to put it too strong, you continued this business in which you only made enough to pay for interest and wear and tear?—A. I did not say that we lost by it.

Q. But you only made enough to pay interest and wear and tear on the vessel?—A. Yes; and the depreciation on the vessel, and when we did that we thought we had done well.

Q. And you passed vessels fishing on the American shore and doing better than you could?—A. We could not all get crews and go there and fish. They were brought up to that kind of fishing and they could get crews for it, but we could not.

Q. Why not?—A. We did not have enough men, and men were scarce.

Q. Do they take a larger number of men on vessels fishing along the American coast than they do in the bay?—A. No; they take just the same number.

Q. Why, then, were you prevented fishing on the American coast?—A. We could not get crews to stay there. The men had themselves no faith in the shore fisheries.

Q. This was fishing ten miles off shore?—A. The men were brought up to fishing here, and they thought that they must come here and fish.

Q. Were they not just as able to manage a vessel and fish as other men?—A. I do not know but what they were just as good fishermen, but they never fished there, and we could not get them to go on George's Bank, they had such a dread of it.

Q. I am not referring now to George's Bank. How many miles is that from the shore?—A. About 100 miles.

Q. I am speaking of the fisheries in which you have been engaged during the last two years, about 10 miles out from the shore?—A. I call George's Bank our shore fisheries.

Q. Then do I understand, when you speak of having made \$2,000 a year for the last six years, that you refer to George's Bank, which you call the shore fishery?—A. We go there at certain times of the year.

Q. Do I understand you so to include that Bank?—A. I never did but little of that kind of fishing.

Q. Will you answer the question! Do you approve of that or not?—A. I do not, in my case. I can leave it out in my case.

Q. Did you fish there during that time?—A. I was there twice during that period.

Q. Did you get any fish there?—A. I obtained about 10 barrels.

Q. The trip down there was a failure?—A. It was in my case. I just simply go across there from the south to try for a week or ten days with the other vessels.

Q. Then your experience of George's Bank during the last 8 or 10 years is that the fishing there has been a failure?—A. The vessels that stop there and fish do first rate.

Q. And you did not stop there?—A. No; I expected to find fish on the eastern shore, where I went and fished.

Q. During these 8 years you only obtained 10 barrels of fish on George's Bank?—A. Yes.

Q. And all the rest you secured on the American inshore fishing grounds?—A. Yes.

Q. And you took them all about ten miles from the shore?—A. I said I should judge that I took about three-quarters of what I caught outside of ten miles from the shore.

Q. How far outside of 10 miles?—A. From 10 to 50 miles.

Q. And you took about three-quarters of your fish at that distance from the shore?—A. Yes; I should think that these were taken outside of 10 miles from the shore.

Q. How far from the shore did you catch the other one-quarter?—A. We cannot go very near the shore; our nets are 27 fathoms deep, and we must not go near it or we would touch bottom. We have to fish 7 or 8 miles from the land.

Q. As I understand you, then, instead of catching one-quarter of the fish inshore, not a single barrel of all those you have taken during the last eight years have been caught within three miles of your own coast?—A. In some places we can go within a mile of the shore and have plenty of water.

Q. You are upon oath, and you say that during these eight years you have not, on any one occasion, fished within three miles of your own coast?—A. I have caught one-quarter of the fish from two or three miles out, according to my judgment. I do not know exactly how far it was from the shore. I never define it. I might have caught one-quarter of my fish inside, perhaps, of three miles from the shore.

Q. Did you not tell me just now that you caught one-quarter of the fish within 7 or 8 miles of the shore and the other three-quarters from 10 to 50 miles out?—A. It might have been inside of the three miles that I got the quarter. We took them anywhere where our seine would not touch bottom.

Q. Did you not tell me just now that you took them between 7 or 8 or 10 miles of the shore?—A. I did not mean to say so, but I might have done so. I did not intend to say so, if I did do it.

Q. Will you tell me what proportion of the three-quarters was taken between 8 and 10 miles of the shore, and what proportion between 8 miles from, and the shore?—A. I cannot tell you anything about it, save from my judgment. I tell you that we caught the mackerel anywhere where the net would not touch bottom.

Q. You stated that it would touch bottom anywhere along shore, did you not?—A. I did not say anywhere, but that we must have 27 fathoms of water for it.

Q. How far have you fished from the shore?—A. We have fished all around the ledges.

Q. But how far from the shore?—A. It was two miles from the shore.

Q. Will you swear it was within two miles of the shore?—A. Yes; plenty of mackerel are inshore, but we could not get at them.

Q. Will you swear that any portion of that one quarter was taken within three miles of the shore?—A. I do not know that I could swear to that.

Q. It then comes to this: You can swear that of the whole of that catch you caught three-quarters from 10 to 15 miles off the shore, and that as to the other quarter you cannot state that one single fish was taken within three miles of the shore?—A. I can.

Q. How many were so taken?—A. I have caught 50 barrels off Cape May within half a mile of the land.

Q. When?—A. Well, the year before last.

Q. Was that the only time you did so?—A. I cannot say that I recollect of more than that one instance.

Q. How many barrels did you catch that season?—A. 1,000.

Q. And out of these 1,000 barrels you caught 950 barrels from 10 to 50 miles off shore?—A. I did not say that. I say that they were taken where the net would not touch bottom. Some vessels carry a fathom net.

Q. Will you swear now that of these 1,000 barrels, one single barrel was taken within three miles of the shore?—A. I could not swear that I did. I do not know that I did, save in the one instance I have mentioned.

Q. Will you now undertake to say that the local fishery on the American coast was exceptionally good during the last 6 or 7 years?—A. I do not know that it has been extraordinarily good; but last season there was a large catch.

Q. Up to last season it was in an ordinary condition, as far as you are aware?—A. Last season the catch on our coasts was very large.

Q. And this year none have been caught there?—A. This year there has been a small catch so far; but I cannot state what may yet be the case. A long time must elapse before the fishing winds up.

Q. Do you know how many barrels have been taken from 10 to 50 miles off your coast and up to the coast?—A. No. I could not tell you anything about it.

Q. Can you give any approximate to the number?—A. No. I could not come anywhere near it.

Q. Have you read the reports of this year's catch?—A. No.

Q. Do you read the papers at all?—A. I think I do when I get them, but I have not had many of them since I have been down here. Down in this country we do not get any papers.

Q. You have stated in answer to Mr. Trescot that so far from transshipment of cargoes on our shores being a privilege it is a delusion and a snare, and that you lost money by it?—A. That was my experience.

Q. Do you put that statement forward as the experience of your brother fishermen?—A. Every man from our place will say the same thing.

Q. Do I understand you to say that it is the general experience of the American fishermen, so far as you are aware?—A. I say that it is the case with those who go from Newburyport, but I would not speak for places farther away. I do not know much about other ports. Gloucester is a large place, but I know very little about it.

Q. Do you know whether the Gloucester people avail themselves of this privilege of transshipment?—A. I know that they ship very few mackerel, and not nearly so many so they used to do.

Q. When did they used to transship?—A. They did so at the same time I did.

Q. When did you do so?—A. 10, 12, or 15 years ago.

Q. Was this during the Reciprocity Treaty or afterward?—A. It was both at that time and after the treaty was terminated, when we had licenses.

Q. Did you ever transship after the Reciprocity Treaty expired, and when you had no licenses?—A. I do not think that we could ship without licenses.

Q. Did you ever do so after the expiration of the Reciprocity Treaty

and when you had no licenses?—A. I think I always had licenses, but I would not be positive about it.

Q. Will you swear that you never evaded the license system?—A. I would not so swear, but I might possibly have done it. I am sure that I had a license every year.

Q. Do you mean that you had licenses but did not pay for them?—A. No; of course if I had them I paid for them. You don't generally give away much down in this country.

Q. Do I understand you to say that every year after the Reciprocity Treaty you fished in the bay, until the negotiation of the Washington Treaty, you had a license?—A. I say there might possibly be one year when I did not have one, but I think that I had one every year.

Q. Do I understand you to say you think you had a license every year?—A. I think I had; but possibly I did not once—during one year.

Q. And during that year, when you may not have had a license, did you go into the bay and run the risk of seizure?—A. Yes.

Q. And if the bay fishery was no good, why did you go there and run the risk of capture?—A. I do not think I was so foolish as that; but I might possibly have done so.

Q. Still you are not prepared to say that you did not do so?—A. I am not. My memory is not very good on that point; but I do not know—I might possibly have done so. I think I had a license every year that they granted them.

Q. Did you not speak about evading the cutters?—A. Of course. We did not go inshore when we saw the cutters.

Q. Why?—A. If we saw a cutter ready to take us we would not go in.

Q. During what year was that?—A. It was any year and at any time. If I saw a man at any time going to take me I would keep away.

Q. Then, during the Reciprocity Treaty, if you saw a cutter you would not go inshore?—A. During the treaty, of course we did not care for the cutters.

Q. When did you evade them?—A. We were afraid when they were there to take us, whether it was within three or five miles of the shore.

Q. During what year were you so afraid?—A. I do not know. It was after the Reciprocity Treaty when we were most afraid of them.

Q. Was that in 1869?—A. Yes, about nine years ago.

Q. You did try to evade the cutters that year?—A. Yes; but I did not then go inside. I never hove to that year when I thought I was inside the limit.

Q. And eventually you went out of the bay on this account?—A. It was because I was in dread of the cutters, and not because I fished inside of the limit.

Q. Why were you in dread of the cutters if you had a license?—A. They would not then give licenses.

Q. In 1869?—A. No.

Q. Do you swear that no licenses were issued then?—A. I swear that when I left the bay the last year I was there they would not give me or grant anybody licenses.

Q. And this was in 1869?—A. It was in 1869 or 1870, or the year I left the bay, whichever it was.

Q. And you state that this was in 1869?—A. I think that it was eight years ago. No licenses were then issued, anyway.

Q. Then you went into the bay with full knowledge that you could not get a license?—A. Yes.

Q. And with a full knowledge that you were liable to seizure by so doing?—A. I knew that they would take me, if possible.

Q. And though you ran the risk of seizure, still you went to this miserable wretched fishery, the proceeds of which were only sufficient to pay for wear and tear?—A. I tell you that we did a fairly good business up to that time, eight years ago.

Q. You swear that this was the case?—A. Yes. I did what I call a fair business.

Q. And you made money at it?—A. I made insurance and depreciation, which just about kept us along the same as we were before.

Q. And do you call that a good business?—A. It was a good business when we could do nothing else.

Q. You did not make a dollar of money but only paid for wear and tear and the insurance?—A. We ran our risk and got the insurance and interest money, of course.

Q. And that is all?—A. We did not take out any insurance. We took our own risk.

Q. You put the premium in your pocket, and that was all you made?—A. Yes.

Q. And do you call that a business which any man in his senses would pursue?—A. A man would pursue it when he could do nothing better.

Q. And you could not do anything better?—A. No.

Q. Your own coasts did not offer any inducement to you for fishing?—A. That was before we began to seine.

Q. And you then saw other vessels on your own coast fishing and doing first rate?—A. They did so with hooks on George's Banks.

Q. But not along the coast?—A. They would not do much along the coast except in the fall of the year. I guess that they fished principally on George's Bank.

Q. If I understand you aright; you say that these gulf fisheries are of no earthly use to the Americans at all?—A. They are not now; they are not so to me, anyway.

Q. That is, they are not if you have a better business to go into?—A. I have my business and I am a fisherman; and these fisheries are of no good to me.

Q. Do you believe that the gulf fishery is in fact of no practical value whatever to the United States fishermen, speaking generally and not individually?—A. I cannot speak for the United States. I can only speak for myself. This fishery is of no earthly use to me individually as a fisherman, because our coast fishery is ten times as good.

Q. And that is the only answer you will give?—A. That is all. I could not speak for everybody in the United States. It is a pretty large place.

Q. And you cannot speak for the body of American fishermen either?—A. I do not know that I could speak for the fishermen at large.

Q. And do you think that all these men have gone into the bay to do just the kind of business you did; that is to say, simply to pay the interest on expenditure, and to enable them, as underwriters on their own trips, to pocket the premiums?—A. I do not believe that there is a vessel which, during the last six years, has done that in the bay, or averaged that.

Q. Or averaged it?—A. No, they could not begin to do so.

Q. And still you will persist in going into this wretched place year after year? This is a most extraordinary thing.—A. I tell you that we used to do well enough there until we went to fishing on our own shore

and caught mackerel there. I have told you that almost a thousand times.

Q. And your fishery is a deep sea fishery?—A. Certainly it is. Everybody has got the same privilege there that we have.

Q. Do you do anything in cod-fishing?—A. No; I am no cod-fisherman at all.

Q. And you do not know anything about that fishery?—A. No. I went as far as Labrador once, but that is all I can tell you about cod-fishing. One season at it was enough for me.

Q. And you do not know anything about the bait required for cod?—A. No. I am no cod-fisher. I am a mackerel-catcher in every sense of the word. I have caught mackerel in all kinds of ways.

Q. You have heard that Prince Edward Island is a first-rate fishing place?—A. I have heard that it is a regular rat-hole. A good many of our men have lost their lives there, and they are and have been a little shy of it.

Q. How many Americans, since what is called the great Yankee gale in 1851, have lost their lives there?—A. They have taken very fine care not to get caught there.

Q. That is the only way you account for the fact, as you think that after the gale of 1851 no American fishermen have ever ventured in reach of Prince Edward Island?—A. They have taken fine care to give it a clear berth.

Q. Are you aware of the fact that there are extensive harbors of refuge on the northern side of the island, provided for American fishermen at the expense of the Dominion Government?—A. No, I am not.

Q. Are you aware that expensive lights are kept up along the shore for the benefit of fishermen?—A. I am aware that there are a good many of them now; but they were dreadful few when I went there years ago, though we used to have to pay light-money.

Q. This was the case years ago?—A. They were then dreadful few.

Q. And since eight years ago they have been put up?—A. There was one on East Point and one at North Cape, when I went there before.

Q. Do you mean to say that there were none there in 1870 or 1869?—A. I say they had then built one at East Point and one at North Cape. Q. But a great number of the light-houses have been built since?—A. Yes; the coast is very well lighted now.

Q. This has been done since the Washington Treaty was negotiated, for the benefit of Americans if they come there?—A. I doubt very much that it has been done for our benefit.

Q. Are they of any benefit to you if you go there?—A. Of course they are of just as much benefit to us as to anybody else, but you have got a very large trade, and large vessels go through by there.

Q. Is there not a large harbor at Souris?—A. It is of no earthly use to our fishermen; if eight or ten vessels were there they would chock it full, and I would not then like to have my vessel behind the breakwater with a southeasterly wind for anything.

Q. You were in there?—A. I just came from there the day before yesterday.

Q. And you will swear that eight or ten vessels will fill the whole harbor?—A. I should think that 10 vessels would be as many as could harbor there safely in a gale of wind and have a decent berth.

Q. How many were in when you were there?—A. Twenty-five sailed but not over ten of them lay inside of the breakwater. I do not think that this number was inside of it.

Q. All the rest were out in the open sea?—A. They were outside of the breakwater, anchored in the cove.

Q. That is the harbor?—A. It is a fair harbor except during a southeasterly wind.

Q. Would not that breakwater protect 25 vessels lying in the ordinary harbor?—A. No. I could not stop there under such circumstances; I would then get right under way and go right out of the place.

Q. Will you swear that there have not been as many as 50 American vessels in that harbor at one time protected by the breakwater?—A. I should like to see them get in there.

Q. Will you swear that it was not so, or that it could not be so? Can you swear that 100 vessels could not harbor there?—A. It don't look to me as if they could put 5 vessels in there.

Q. And you undertake to state that 100 vessels could not be put there, and that it looks as if 5 could not be put there?—A. It looks very small. I think that 8 or 10 vessels are as many as ought to be there to have a decent kind of a berth.

Q. You admit that 10 vessels could get a decent berth there?—A. I think that they could.

Q. If this is so, what made you say that it looked as if 5 could not be put there and in the next breath that ten vessels could have a decent berth there?—A. I say I do not know but what they could. I give it as a rough guess.

Q. You told the Commissioners on your oath that this harbor did not look as if it would protect five vessels, and in the next breath you tell them that ten could be harbored there?—A. It don't look as if it would protect one vessel.

Q. Not one vessel?—A. No; it does not. I would not dare risk my vessel behind it.

Q. Do you know anything about the fleet which, for the last 15 years, or during the Reciprocity Treaty, found shelter in Malpeque and Souris Harbors?—A. No; I was never in Malpeque Harbor more than two or three times in my life during that period.

By Mr. Trescott:

Q. With regard to the value of the gulf fisheries, do you say that if you had your choice, as far as a decision is concerned, you would consider yourself much better off with a duty laid on imported fish, and be entirely excluded from fishing on the Canadian coast within the three-mile limit; and as far as you know in stating this you represent the general opinion of American fishermen?—A. I never thought anything different; I always advocated that all through; I am strongly in favor of it.

Q. With regard to the unwillingness of the fishermen to go and the difficulty of getting to George's Bank, is it the fact that a large proportion of these crews was composed of Canadians?—A. Well, these people had a certain dread of that Bank.

Q. They were prejudiced against it, and preferred to go to their own fishing grounds?—A. Yes; they were accustomed to come here, and they would not go there.

Q. With regard to the difficulty of telling whether you are three or six miles from the shore, I understand you to mean that it was uncertain where you were, and that you were unwilling to run the risk of being taken by a cutter when you were really outside of the limit, or when you were inside of it, owing to being deceived as to your distance from

the shore?—A. To be taken nine miles from land would be just as bad for me as to be taken three miles off; that would make no difference to me as far as my summer's work was concerned.

No. 2.

EDWARD STAPLETON, fisherman, of Gloucester, was called on behalf of the Government of the United States, affirmed and examined.

By Mr. Foster:

Question. Where were you born?—Answer. In Nova Scotia.

Q. And you now live in Gloucester?—A. Yes.

Q. How long have you lived there?—A. Since I was four years old; and I am now 33.

Q. For how many years have you been captain of a vessel?—A. Thirteen.

Q. In what fishing have you been engaged?—A. In mackerel and Bank fishing.

Q. By the Bank, you mean the cod fisheries?—A. Yes.

Q. In which did you begin first?—A. In mackerel fishing.

Q. And thirteen years ago you commanded a vessel which was engaged in mackerel fishing?—A. Yes; she was called the Fashion.

Q. She was from Gloucester?—A. Yes.

Q. What was her tonnage?—A. I think it was somewhere about 46 tons. She was a small vessel.

Q. Who owned her?—A. George J. Marsh and Frank Holmes.

Q. During how many years were you in her?—A. I was in her one season.

Q. In what vessel did you next ship?—A. The Laura Mangan.

Q. Was she also from Gloucester?—A. Yes. George Marsh owned her.

Q. For how many years were you mackerel fishing?—A. I have been for ten years master of a vessel.

Q. In what year did you make your last mackerel trip?—A. In 1873.

Q. The year of the great gale?—A. Yes.

Q. Where did you fish when you fished for mackerel?—A. In the Bay of St. Lawrence, around the Magdalen Islands, and Banks Bradley and Orphan.

Q. Generally state what course you were expected to pursue when you left Gloucester on a trip to catch mackerel?—A. We used generally to run down the Nova Scotia shore and go through the Straits of Canso. We stopped, however, at this strait to get wood and water, and then proceeded up to North Cape in sight of Prince Edward Island, and off Bonaventure.

Q. Where did you begin to fish?—A. We generally used to try broad off North Cape—nearly northeast off North Cape or Prince Edward Island.

Q. Off which part of the island?—A. Off the northwest part.

Q. Where is Bonaventure?—A. It is over off the Gaspé coast. It is just outside of Gaspé.

Q. And how far from the land did you begin to fish off the North Cape?—A. The land would be just in sight.

Q. And how far off Bonaventure did you fish?—A. We used to run so as to see the hills.

Q. Is there a Bank in this quarter?—A. Yes. Bonaventure Bank.

Q. How far from the land is it situated?—A. I should think that it is twenty miles off shore, or about that.

Q. Where did you go from Bank Bonaventure?—A. Well, we went down off the west shore, off what we call the Pigeon Hills; we would be about 12 or 15 miles off shore.

Q. Where are Pigeon Hills?—A. On the Canadian shore, at that point.

Q. How far would you be from the shore?—A. I should think about 15 miles.

Q. Would you lie off Shippegan?—A. We would be broad off Shippegan.

Q. And how far from the shore?—A. From 15 to 16 or 17 miles.

Q. Where did you go next?—A. About the 1st of July we generally struck up along the coast and across to Magdalen Islands. We generally calculated on fishing there on the 4th of July.

Q. What did you next do?—A. We always finished up the season at the Magdalen Islands; and along late in the fall we would go to Margaree and Cheticamp. We would probably stay there for a week or 10 days.

Q. During how many years did you successfully follow the mackerel fishing?—A. I was master of a vessel during ten seasons.

Q. And during these 10 seasons, how far from the shore did you take the greater part of your fish?—A. We got the most of them off shore—10, 12, 15, or 16 miles off shore.

Q. At which of the points you have named was the best mackerel fishing to be found?—A. At the Magdalen Islands.

Q. I have heard something about the danger of fishing at the Magdalen Islands; is this correct?—A. The best harbor in the bay is there.

Q. Explain.—A. This is the case, because you can always make the lee, no odds how the wind is around the land; you can always put down the anchor there, and be in smooth water.

Q. Is the weather there rather boisterous?—A. It blows spells.

Q. But no storms are peculiar to that locality?—A. No.

Q. When it is stormy there, it is stormy throughout the gulf?—A. Yes.

Q. And though the water is rough there, you are always safe?—A. You can always fish under the lee of the land at the Magdalen Islands; and this makes it the best fishing ground in the bay. You can always be near the land, and in smooth water, if it is blowing a good breeze.

Q. Laying aside the Magdalen Islands, what proportion of your mackerel catch was taken, according to the best of your judgment, within three marine miles of the coast, and what proportion, farther out than that?—A. I do not think that I ever got 150 barrels inside of the three-mile limit in my life in the bay.

Q. What was your average catch, yearly, during these years?—A. It was about 600 barrels, I should think, a season.

Q. Were you in the habit of transshipping?—A. I shipped two fares, while I fished for mackerel.

Q. From where?—A. The Strait of Canso.

Q. And in what way did they go to Canso?—A. One fare went in a sailing vessel, and the other in a steamer.

Q. What was the principal object to be gained by transshipping cargoes?—A. I sent one trip home, in order to have the time that would have been consumed if I had gone home with it to fish in the bay.

Q. How much did it cost you to take the mackerel to Gloucester?—A. About what we made on the next trip.

Q. What did it cost?—A. About \$1.50 a barrel.

Q. And the expense of transshipment brought the cost to \$1.50 a barrel?—A. I think it was somewhere about that. I would not say for certain.

Q. Did you buy your bait?—A. I brought it from home, but I bought barrels and salt at Canso.

Q. What else were you and your crews accustomed to buy there?—A. Boots and mittens, and some stores—small stores for the vessel.

Q. When you did not transship, what would be the average expenditure of the crew of the vessel in British Provinces?—A. We used to spend about \$100 during a season down there.

Q. Did that include what the crew bought for themselves?—A. That was for what I used to use.

Q. How much would the crew expend?—A. Probably some would spend more than others.

Q. What would be the average?—A. They might spend \$4 or \$5 apiece.

Q. All told, what would be the average amount of money which you would pay out in these provinces when you did not transship cargo?—A. About \$150.

Q. A trip?—A. Yes.

Q. And when you transshipped, how much would you expend?—A. From \$500 to \$600.

Q. And you always brought your bait from home?—A. Yes.

Q. Did you never buy any of it?—A. Not here. I had no occasion to do so.

Q. As to the mackerel fishery, which in your judgment is most advantageous to the fishermen of the United States—to be excluded from fishing within three marine miles of the coasts of the British Provinces, and to have provincial mackerel subject to a duty of \$2 a barrel, or to have the right to fish close inshore on the coasts of these provinces, and to have provincial mackerel imported into the United States free of duty?—A. As far as I am concerned, I would sooner see the \$2 a barrel duty imposed; it would be more money in my pocket, I should think.

Q. What is the opinion of American fishermen generally on this point?—A. The same.

Q. You have been engaged in the coast fisheries since 1873, I believe?—A. I missed one year. I have been cod-fishing during the last three years.

Q. Which year was it when you did not fish?—A. That was three years ago. I have been fishing for cod three seasons, for two years and this season.

Q. This, then, is your third year?—A. This is my third season cod-fishing.

Q. What is the name of the cod-fishing vessel of which you are captain?—A. The Viking.

Q. What is her tonnage?—A. Seventy-three.

Q. During what portion of the year do you fish in her?—A. I have left for the grounds about the middle of April every year since I have been so fishing.

Q. Up to what time do you fish for cod?—A. To the last of October.

Q. Where have you fished?—A. At the Grand Banks.

Q. What has been the number of your crew?—A. Twelve.

Q. When you have started from Gloucester in April on a cod-fishing trip, what have you done about bait?—A. I have gone to Fortunate Bay for our first baiting; I used to go there winters for herring.

Q. You have generally bought your bait in Newfoundland?—A. Yes.

Q. What sort of bait?—A. Herring, squid, and caplin.

Q. Which is the most important bait?—A. Squid.

Q. What degree of importance do you give to caplin?—A. Well, I have a poor opinion of caplin. I never used it but once, and I did not do anything with it this year.

Q. Do you intend to buy caplin for bait any more?—A. No.

Q. How long can you keep squid for bait?—A. About a fortnight, or from 14 to 16 days. It is all owing to the weather; if you have good weather it will remain good for three weeks.

Q. If kept on ice?—A. Yes.

Q. And if frozen hard, would it keep longer?—A. I have stated as long as they will keep when frozen.

Q. Then, if you wanted to keep them more than 14 or 16 days, you would only use more ice and freeze them harder?—A. Yes.

Q. How is it with herring?—A. The same.

Q. Can you keep them frozen hard as long as you please?—A. No; but for about a fortnight.

Q. If frozen absolutely hard with an abundance of ice, how long will they keep?—A. Three weeks are as long as they will keep at the outside.

Q. Have you ever used salt bait?—A. Yes; some.

Q. What did you so use?—A. Clams and squids and slivers; we got them on our own coast.

Q. What are slivers?—A. Pogies and menhaden cut into slices.

Q. To what extent are clams and slivers and other salt bait used in cod-fishing?—A. Vessels from this out to the last of October use it altogether. It is late to get bait anywhere on the Newfoundland coast; but they can now get good bait from the south.

Q. You have not been cod-fishing long enough to know when the use of fresh bait began?—A. No.

Q. Perhaps you know from tradition or hearsay how long it is since it has been used?—A. I could not say; but I should think that it has been used during the last 7 or 8 years—that is on the Grand Banks.

Q. Prior to that, did people for 150 years succeed in catching cod?—A. Well, they used to go there and fish with salt bait and clams and what bait they got out of the fish; they saved everything inside of the fish for bait.

Q. Did they also catch bait on the Banks?—A. O, yes; squid. Some vessels, which got their own bait on the Banks, obtained full fares.

Q. But your practice has been to go to Newfoundland and buy bait?—A. Yes.

Q. Do you catch it yourself?—A. No.

Q. Did you ever catch any; and, if so, how?—A. I caught a few squid; that is all.

Q. Under what circumstances?—A. This year two baitings of squid cost me \$220.

Q. How much did you catch?—A. I have caught \$5 or \$6 worth.

Q. Is that the proportion of what you caught, to what you have bought?—A. Yes.

Q. How many herring have you bought this year?—A. I bought two baitings; the first cost me \$52, and the second \$30.

Q. Do you go and catch bait, when preparing for cod-fishing?—A. No; we buy it. We go to Newfoundland, see the American consul, and get our money. We proceed to St. Peter's when bound up to Fortune Bay, and see the American consul, and then go up and buy our bait.

Q. Are the people there willing to sell you bait?—A. Yes. They are glad to see us come.

Q. Do you have to go and look them up?—A. They look us up. They board us at St. Peter's, and go in with us. They come out to sell bait to the French, and while we are there, perhaps 6 or 7 different men will come aboard and take us in to get bait.

Q. This purchase of bait is a business which the people of Newfoundland solicit?—A. Yes; if it was not for the American fishermen, I should think that the people of Fortune Bay would starve; this is what maintains them.

Q. What do you do there in winter?—A. I go there and trade for herring.

Q. When you leave Gloucester to trade for herring, what do you take from Gloucester? How do you clear?—A. Sometimes I have gone under register, and more frequently under fishing papers.

Q. What fishing papers?—A. The same as I have now.

Q. Do you take a permit to touch and trade?—A. Yes.

Q. What do you take with you?—A. Mostly money; but also a little flour and pork and kerosene oil.

Q. When you get to Newfoundland, do you enter your vessel at the custom-house?—A. Yes.

Q. And do you pay a duty on your goods?—A. Yes.

Q. Then on the goods you bring for trading purposes, you pay customs duty?—A. Yes.

Q. And having done so, you trade with the inhabitants?—A. Yes; we pay money enough for light dues, without paying any other duty.

Q. You pay the duty on your goods when you go in?—A. Yes.

Q. Do you remember what it is?—A. We pay, I think, \$1 a barrel on pork, 25 cents a barrel on flour, and 14 or 15 per cent. on kerosene oil—that is on cost prices.

Q. Where do you then go for herring?—A. Generally to Long Harbor.

Q. How do you get your herring?—A. We go there and, having anchored, we build a scaffolding all over the vessel just as level as a table, and having bought the herring, we spread them on this scaffolding and freeze them.

Q. Where do you buy your boards with which you make the scaffolding?—A. Sometimes we bring our own down, and sometimes we procure them on our way down.

Q. And you build a scaffolding all over the vessel?—A. Yes; about 10 or 12 feet from the deck.

Q. And having bought the herring, you freeze them there?—A. Yes.

Q. From whom do you buy the herring?—A. From the natives.

Q. Do they come to you with boats?—A. Yes.

Q. Do your people assist in catching the herring?—A. No. Sometimes we might be over on the beach and lend a hand to haul them in, but we have to pay them for the fish.

Q. You take no seines with you?—A. No; and if our men assist the natives in hauling the seines we get nothing for it. We buy the fish from them.

Q. You buy the fish and freeze them?—A. Yes.

Q. You take them home, and they are used partly for bait and partly for food?—A. Yes.

Q. Do you salt them?—A. No.

Q. You have been in this business for three years?—A. I have been so occupied for fifteen winters.

Q. You then have carried on that business in connection with the summer mackerel fishery?—A. Yes.

Q. You have traded in Newfoundland during all the years when you were mackerel-fishing?—A. Yes; and for two years before I became master of a vessel.

Q. And during that period has the condition of the people who sold you bait grown worse or better?—A. It has improved since I went there for the first time. Families which when I first went there were not worth a dollar, are now well off for that country.

Q. How much money do you spend there?—A. Last winter I left \$1,000 there.

Q. For herring?—A. Yes; that is, for everything. I do not take much goods with me.

Q. Taking into consideration all the American vessels which go there with permits to touch and trade, as you do, how much money do they leave with the inhabitants of Newfoundland in payment for herring, as far as you can judge?—A. I think that last winter there were about thirty sail of Gloucester vessels there; and they would each average \$1,000. There were two from our firm, and we left there \$2,300.

Q. Do you hear any complaint from the people who so deal with the Americans about this business and of buying bait?—A. No.

Q. Who makes any complaint, if any is made?—A. An English firm at Cape Breton does.

Q. They complain about it?—A. Yes.

Q. Do you go to any place in Newfoundland besides Fortune Bay?—A. For herring, no.

Q. If you were totally excluded from buying bait at Newfoundland, or anywhere else in the British possessions—suppose that they were fenced off and you could not go there at all—would you experience any difficulty in carrying on the cod fishery on the Banks?—A. No.

Q. Why not?—A. I think that we would then do just as well, because we all have salt bait when we left home, and salt bait would not be there; and the time we lose in going into Newfoundland for bait we would make up by fishing.

Q. But if one vessel has fresh bait the others want it too?—A. Yes; if a vessel alongside of you has fresh bait you are not going to catch your share of fish with salt bait; but if all the vessels have salt bait the fish take it.

Q. Can you buy bait at St. Peter's?—A. Yes. The Fortune Bay people run over there with it in the spring.

Q. They carry it there and sell it?—A. Yes.

Q. Is there an ample supply of it at St. Peter's?—A. Yes; a pile of it is taken in there. Sometimes they have to heave the herring overboard because they cannot sell it.

Q. This is because they have too many herring?—A. Yes.

Q. No objection of which you are aware is made to the Americans trading there?—A. No.

Q. These people are willing to take United States money?—A. Yes; they are willing to take our gold.

By Mr. Weatherbe :

Q. Where were you born in Nova Scotia?—A. At the Strait of Canso.

Q. How long is it since you lived there?—A. Since I was four years old, I have lived at Gloucester.

Q. You say that for ten years you were fishing in the Bay of St. Lawrence?—A. Yes; and during that time was master of a vessel.

Q. Tell me the names of the American vessels in which you fished?—

A. I built the first one in which I fished—the Fashion. The next one was the Laura Mangan; the next the American Eagle; the next the Fitz J. Babson; and the next the Pathfinder.

Q. Had you any Nova Scotians in the Pathfinder?—A. Yes.

Q. How many barrels did you catch in the Pathfinder?—A. I think we obtained 600 barrels during one season when I was in her; during another season I made only one trip with her and got 360 barrels.

Q. What did you catch in the other vessels?—A. The first year I went master of a vessel, I think we got somewhere in the neighborhood of 700 barrels. We made three fares.

Q. What did you catch in the other vessels?—A. We caught about 700 barrels in the Laura Mangan one summer; and the next summer about 500 barrels. I think we secured 400 barrels during the first season I was in the American Eagle.

Q. How many trips did you make in her?—A. Two.

Q. How many trips did you make in the other vessels?—A. Two.

Q. You made two trips in all of them?—A. Yes, except the first year, when I made three trips.

Q. And in all the others you made two trips?—A. Yes, excepting one year, in the Pathfinder, when I made only one trip.

Q. How long were you in the Pathfinder on that one trip?—A. I think that we were gone about eight weeks.

Q. Altogether?—A. Yes.

Q. This was from the time you left until the time you returned?—A. Yes.

Q. And you got 600 or 700 barrels during that time?—A. Yes; we took about 600 barrels in the Pathfinder.

Q. Did you not get 700?—A. We caught 360 and 270 in the two trips.

Q. That is just what you obtained?—A. Yes.

Q. During what years did you take out a license?—A. I took out a license when I was in the Laura Mangan, I think; but I would not say whether I bought two licenses or one license.

Q. Did you fish in our waters under the Reciprocity Treaty, when it was not necessary to take out a license?—A. Yes.

Q. And afterward you took out a license?—A. Yes. When I went into the bay in the Laura Mangan I paid the first year, I think, 50 cents a ton.

Q. Did you take out a license the first year you fished?—A. I think I did so the first year I fished in the Laura Mangan.

Q. Did you do so the first year you came fishing?—A. Yes; the first year that licenses were issued I took one.

Q. Were you in the bay the year previous?—A. Yes; and the year before that.

Q. This was when you could fish without a license?—A. Yes.

Q. Did you take out a license every year afterward?—A. I do not know. I almost forget whether I took licenses out for two years or not.

Q. During how many years afterward did you fish?—A. I fished every year in the bay when licenses were issued.

Q. Did you take out a license every year?—A. No; not every year.

Q. You fished without a license for one or two years?—A. Yes.

Q. In what vessel did you then fish?—A. In the Laura Mangan and the American Eagle. I took out a license when in the former, but I do not know whether I took out a license during two years or not.

Q. At any rate, you have fished without a license?—A. Yes.

Q. You found that others did so?—A. Yes.

Q. And you did not see why you should not do the same?—A. I was not scared of being taken, and finally we could not get fish enough to pay for the license.

Q. And, besides, you found that others were not paying for licenses?—A. Yes.

Q. And you thought that you could run the risk as well as they?—A. I knew that I was not going to run any risk; I was not going to fish so as to run any risk.

Q. Why did you take out licenses previously?—A. The charge was 50 cents a ton then, and I did not want to be bothered, if I anchored around the land. If I did so I did not wish to be driven out.

Q. If I understand you aright, you transshipped the last year, when you had no license?—A. I never transshipped when I had no license.

Q. What did you do with your cargo, then?—A. I shipped a trip the first year I was master of a vessel, but no licenses were issued that year.

Q. What did you do with your cargoes afterwards?—A. I carried them home.

Q. Have you transshipped since the Washington Treaty has been in force?—A. Yes.

Q. Where were you fishing last year?—A. On the Grand Banks.

Q. And the year before?—A. On the Grand Banks.

Q. And where have you been fishing this year?—A. On the Grand Banks.

Q. What do you fish for?—A. Cod.

Q. You now fish for cod altogether?—A. Yes.

Q. When did you come into this port?—A. About 12 o'clock to-day.

Q. Did you come as a witness, to give testimony?—A. No.

Q. You just happened to come in?—A. Yes.

Q. And you did not know anything about giving testimony here?—A. No.

Q. Did you come with the American fleet?—A. They were in here when I came in.

Q. You came alone?—A. Yes.

Q. Do you know how many American vessels have come down here this year?—A. No. I have been away from home for four months, and I do not know anything about what has been going on at home during that time.

Q. When did you last fish for mackerel?—A. In 1873.

Q. And did you fish during that year in the bay?—A. Yes.

Q. Did you fish that year for mackerel in any other place besides the bay?—A. Yes, I went out south that year on our shore.

Q. You went south, and then came to the bay?—A. Yes.

Q. That is the course usually taken by American mackerel fishers?—A. Yes.

Q. The usual course for them, according to the evidence given, is to commence fishing out south, and to follow the mackerel when the latter come into the bay?—A. Yes, that is the way we did that year, but during the last three or four years there have been no mackerel in the bay.

Q. How do you know that?—A. The vessels have found mackerel enough on our coast.

Q. You are now speaking from hearsay?—A. Yes.

Q. You are saying what you have heard?—A. Yes.

Q. But I am referring to the years when you fished for mackerel;

the usual course was to commence south and to follow the fish up into the bay?—A. Yes.

Q. That was always the course taken?—A. Yes.

Q. And you arrived in the bay about the middle of June?—A. We came there about the first of July, I think.

Q. Did not some vessels get in earlier?—A. They came, I think, about the 1st of July.

Q. And you remained until the 1st of November?—A. I got one fare, went home and came back.

Q. That was the usual course which you followed?—A. Yes.

Q. The vessels followed the mackerel up from the south and reached the bay about the middle of June or the 1st of July, and then followed them round the bay, staying in the bay until late in the fall?—A. They remained in the bay until about the middle of October.

Q. The fish are very large and fatter in the fall than in the spring, are they not?—A. Yes.

Q. Give me the names of the vessels in the fleet in which you fished.—A. There was the Captain Lee, the William Sutton, and Captain Bradley's vessel, the S. C. Noyes; the William S. Baker, the Colonel Cook, and the Electric Flash.

Q. What Nova Scotians had you in the vessel in which you fished in the bay?—A. I had Jim Summers, I think.

Q. Where does he reside?—A. At the Strait of Canso.

Q. Does he reside there now?—A. Yes.

Q. Give me the names of some other Nova Scotians who were with you?—A. I do not know whether I had any more with me or not.

Q. Did you have many Nova Scotians with you?—A. I guess I had a man named Cushing with me.

Q. Give us the names of all the Nova Scotians who have fished with you during the whole period you were mackerel-fishing.—A. I had with me a man named Colin Murray.

Q. In the Pathfinder?—A. No.

Q. Did you have only one Nova Scotian in the Pathfinder?—A. I am thinking whether I had any more. I had a man named Robert Carter, I think.

Q. In the Pathfinder?—A. Yes.

Q. Where does he live?—A. At the Strait of Canso.

Q. Had you any others?—A. I had John Credington.

Q. That is a Canso name?—A. Yes; he belongs to Canso.

Q. And we will find him there?—A. I think that you likely will.

Q. Do you remember any other in the Pathfinder?—A. No.

Q. Do you remember the names of any Nova Scotians who were with you previously?—A. I had a man named Colin Murray.

Q. Of Canso?—A. Yes; but I cannot think of any other names, though I had a good many of them along with me.

Q. Do you know the Stapletons of Canso?—A. I know only one man of that name there.

Q. Does he go fishing?—A. No.

Q. Can you give me any other Canso names?—A. There was James Wilkinson.

Q. Of Canso?—A. Yes.

Q. In what vessel was he with you?—A. In the American Eagle.

Q. Do you remember any other name?—A. I have had three or four Scotchmen with me, but I cannot remember their names, but they be long around there. I cannot think of any more.

Q. Is it difficult to tell when you are three miles from land or not?—
A. Yes. Some days land will look nigher than on other days.

Q. It is very difficult to tell whether you are 3 miles from shore or not?—A. Yes.

Q. And sometimes when you are only half a mile from the land, will you imagine that you are 3 miles off shore?—A. No; but if you are one and a half miles off you will think that you are 3 miles off land; at another time you will be 5 miles off and think that you are only 3 miles off shore.

Q. How do you find out when you are nearly 5 miles from the land?—
A. We tell by the distance; we take the chart and draw a line from one headland to another.

Q. You can always find out where you are by taking the proper means for ascertaining it?—A. Yes.

Q. Then I suppose that when you fished without a license you kept your chart constantly in your hand?—A. Well——

Q. Did you do so or not?—A. We did not.

Q. Did you keep your chart constantly in your hand to ascertain where you were?—A. No.

Q. You took no trouble at such times to find out where you were?—A. I fished around the Magdalen Islands and Margaree.

Q. Where did you catch the fish at Margaree?—A. Off shore.

Q. Do the mackerel not feed and breed at Margaree?—A. The fish strike along the shore and follow the shore down.

Q. Do the fish not feed and breed on the shore altogether?—A. No.

Q. Do I understand you to swear that they do not?—A. I do not think that they do.

Q. Will you undertake to say that they do not breed and feed along the shore of this coast?—A. Do you mean close to the shore of Margaree?

Q. Yes, and Prince Edward Island.—A. I never fished close to the shore of Prince Edward Island.

Q. Did you ever see vessels fishing there?—A. I have seen them fishing up and down the shore.

Q. We have a large mass of evidence here on the subject, and I want to know whether you contradict it or not. It is stated that large numbers and fleets of vessels fish within three miles of that shore from day to day?—A. I never fished there.

Q. Did you fish within a mile or half a mile of the coast?—A. I never did; I caught a few mackerel near the shore, but never many.

Q. Did these Nova Scotians who were with you in the Pathfinder catch any mackerel inside of three miles from the shore?—A. We might have got 30 or 40 barrels in shore.

Q. Will you undertake to say that you did not catch the most of what you got within three miles of the shore?—A. Yes.

Q. You are positive on that point?—A. Yes; as to the time I was in her.

Q. How did you know that you were not within three miles of the shore?—A. I could tell by the land.

Q. Did you catch them five miles off shore?—A. No, I do not think so.

Q. You said that you caught a great many fish within 5 and 10 miles of the coast?—A. Yes; and 15 and 16 miles from it.

Q. Did you catch one-half of the fish five miles from the coast?—A. No.

Q. You will swear that?—A. Yes; I have caught a whole trip during different seasons about the Magdalen Islands.

Q. Did you catch them there within three miles of the coast?—A. Some of them I did, and some I did not.

Q. How many did you catch within the three-mile limit?—A. I could not tell.

Q. But we want you to tell?—A. I might have taken 150 or 125 barrels within the three-mile limit.

Q. Would you say the number was 126?—A. I would not be certain to a barrel.

Q. Would the number be 130?—A. We will call it 130.

Q. Would you allow us to call it 140 or 150?—A. Yes.

Q. Or 200?—A. No.

Q. Did you take any count of the catch in this regard at all—will you swear to it?—A. I am not able to swear to it in that way. I never kept such count.

Q. You are not obliged to say how many you caught within any particular distance from the shore. I do not think it possible.—A. No. I cannot say that; but then I can say that I have never obtained many fish inshore.

Q. But you may have caught 125, 130, 140, or 150 barrels inshore?—A. Yes.

Q. But you will not say 200?—A. No.

Q. The number so caught was somewhere between 125 and 150?—A. Yes.

Q. Do I understand you to say that you had a legal right to fish near the coast of the Magdalen Islands?—A. I knew that we had a legal right to catch them as close to that shore as we liked.

Q. Is that the reason why you say you caught that number there inshore?—A. No. It was all owing to where the mackerel played, I suppose.

Q. Altogether?—A. Yes.

Q. The legal right in question made no difference in the matter?—A. No. When we went to the Magdalens we caught mackerel wherever we found them.

Q. How many vessels fished at the Magdalen Islands?—A. I have seen as many as 200 sail there, I should think.

Q. Where did they fish?—A. All around the islands.

Q. Inside or outside of the three miles from the shore?—A. Inside and outside, and everywhere.

Q. Did you ever get a full fare at the Banks in a few days and then go home?—A. No.

Q. Did you ever see such a thing done?—A. No. The most I have ever caught in a few days was 200 barrels in three days off the Magdalen Islands.

Q. Did you ever fish above Cape Gaspé?—A. Not since I have been master of a vessel.

Q. But did you ever fish on the shores of the St. Lawrence above Cape Gaspé, either on the north or south side of the river?—A. No.

Q. You never fished there at all?—A. I have never been up to Gaspé.

Q. And you have never fished off Prince Edward Island at all?—A. I have tried for mackerel there.

Q. How many times did you do so?—A. I could not tell you.

Q. How many times did you try on the island?—A. I could not say.

Q. Will you undertake to say that you never tried once for mackerel within three miles of the coast?—A. Yes, I have tried for them within the three-mile limit.

Q. How often?—A. I could not say.

Q. Could you give any idea in this relation?—A. No.

Q. You can give no idea whatever as to the number of times you have tried for mackerel within three miles of the island?—A. No.

Q. Can you give us any sort of an idea as to how many times you tried for them at Margaree within three miles of the coast?—A. I have never been there many times.

Q. How many times have you been there?—A. Probably half a dozen times for mackerel.

Q. In your life?—A. That is, since I have been master of a vessel.

Q. You now refer to the Cape Breton coast?—A. Yes.

Q. Did you ever try for mackerel off any other part of the coast of Cape Breton?—A. Yes; down at Cheticamp.

Q. How often did you try for them there?—A. I recollect trying once, on coming across from the Magdalen Islands.

Q. You only recollect of doing so once?—A. Yes.

Q. You can only give evidence as to having done so once?—A. Yes.

Q. Will you name any other place on the coast where you have so tried?—A. I have told you of all the places.

Q. Cannot you name any other place?—A. I cannot think of any more now.

Q. Can you give me any sort of an idea as to how many fish you caught within five miles of the coast?—A. No; I could not.

Q. You can give no sort of idea whatever as to such proportion?—A. No.

Q. Can you give me any idea as to what you so caught—more or less?—A. The most of the mackerel I ever caught have been taken off the Magdalen Islands, and broad off the Pigeon Hills. These are my fishing-grounds.

Q. You only went to these places?—A. I would go there, and having tried for fish would leave again.

Q. How many mackerel, more or less, did you catch within five miles of the coast?—A. I could not tell.

Q. You can give no sort of an idea in this relation?—A. No.

Q. And no idea, whether the proportion be greater or less?—A. No.

Q. And you say that it is very difficult sometimes to tell when you are five or two miles off shore?—A. I say it is difficult to tell whether you are five or three miles off shore.

Q. During the time when you had no license you never on any occasion undertook to ascertain by the chart where you were—whether you were three miles from the shore or not?—A. Yes; we did do so as well as we could while we were sailing along.

Q. But you never undertook to ascertain whether you were within three miles of the shore or not?—A. No.

Q. And you never heard of any other American vessel making such an attempt?—A. No.

Q. You never heard of an American trying to do so when outside or inside of the three-mile limit?—A. No.

Q. And I suppose you will agree to this, that when you are following a school of mackerel you were much less likely to find out where you were?—A. Yes; that is so.

Q. And when you were inside of the three-mile limit?—A. I never had a cutter order me off shore in my life.

Q. I suppose that they would do you the common civility to give you warning, and if you then went off nothing further would be said about it?—A. If you went inside the limit they would take you.

Q. I always understood that they would not seize vessels if they did

not know where they were?—A. If they caught you fishing inside they would take you.

Q. You think so?—A. Yes.

Q. Why?—A. Every vessel caught fishing inshore they have taken, have they not?

Q. If they have taken vessels fishing inshore, why do you say that?—

A. Vessels have been taken, and I supposed that they were taken for that reason.

Q. You have simply heard of it?—A. Yes.

Q. And you never saw any vessels taken?—A. No.

Q. Did you ever see a cutter?—A. Yes.

Q. What was she doing?—A. I suppose she was keeping American fishermen from fishing inshore.

Q. Within what distance from the shore?—A. Three miles.

Q. I thought you said that there was no fish in there?—A. I suppose fish are to be found in there. That is what the vessels go there for.

Q. You do not mean to say that fleets of vessels go in to catch fish where there are no fish?—A. Some go in, I suppose, when the mackerel are there.

Q. Then the mackerel do go inshore sometimes?—A. I think that is likely the case.

Q. Did you ever hear of their being caught there?—A. Yes.

Q. Did you ever hear of a load of mackerel being caught inshore?—A. No.

Q. Did you hear that the mackerel were very largely found near the shore this year?—A. I have heard nothing about them this year.

Q. Did you hear of other vessels catching fish inshore?—A. No.

Q. You do not know where other vessels obtained their fish?—A. No. I always looked out for myself.

Q. And you never heard the men on other vessels say where they caught their fish?—A. O, yes, very often.

Q. Why do you say that you always looked out for yourself?—A. I never bothered any man as to where he gets his fish as long as I can get them.

Q. When you had no license did you catch a single fish inside the three-mile limit?—A. I think it is likely that I have done so.

Q. How many do you think that you have caught within the three-mile limit?—A. I do not know; I have so caught a few.

Q. In which vessel were you then?—A. I could not tell you. I think it is likely that I have so caught a few in every vessel in which I have been.

Q. Was this the case when you had no license?—A. I am trying to think whether I had a license then or not.

Q. You said you so caught some fish when you had no license; how did you know that you caught fish inside the three-mile limit when you had no license?—A. I think it likely that I so got a few.

Q. Do you remember saying a little while ago that you never ran any risk when you had no license?—A. Certainly. I told you that I did not calculate that I ran any risk. I think it is likely that I caught some fish within the three-mile limit.

Q. You do not know whether this was the case or not?—A. I do not; but I think it is likely that I did.

Q. And why is that likely?—A. A man does not measure his distance.

Q. But a man who is liable to have his vessel confiscated measures his distance?—A. O, yes.

Q. And unless he can get a large haul of mackerel by doing so he is

not willing to run that risk?—A. He is willing to run the risk if he can catch fish by doing so.

Q. And you did run that risk?—A. I think it is likely I did.

Q. Then you were mistaken when you said you ran no risk when you had no license?—A. I think so.

Q. Did you take licenses out during the years you fished in the bay?—A. I took out a license at first. What was the price the second year? Do you recollect; was it \$1 a ton?

Q. I think so.—A. Then I think that I took out a license the second year; but when the price rose to \$2 and \$2.50 a ton I would not take out one.

Q. In point of fact you thought that you did not run a great deal of risk, as you could see a cutter when she was a long distance off?—A. No. The cutters never bothered me any. I was not a bit scared of them.

Q. You say that you first transshipped a cargo during the Reciprocity Treaty?—A. I shipped one trip the first year I was master of a vessel. I think that we made three trips that year.

Q. And then you have transshipped under the provisions of the Washington Treaty?—A. Yes.

Q. Did you transship afterward?—A. No, I never shipped cargoes save twice.

Q. And you did so under the Reciprocity and Washington Treaty?—A. Yes.

Q. And you transshipped the last year you were in the bay?—A. No; but the year before that, and the year before that.

Q. What is the ordinary rate of freight per barrel for transshipping?—A. I think that it cost somewhere about \$1.50 between the payment of freight and expenses.

Q. What is the charge for freight?—A. I think that they paid \$1 a barrel.

Q. From the Gut of Canso to Boston?—A. Yes.

Q. Will you swear that this was the case?—A. No, but I think it was.

Q. In what steamer did you ship the fish?—A. I could not say.

Q. Who was your agent there?—A. John Maguire.

Q. John Maguire is a very reliable man, is he not?—A. Yes.

Q. He is very truthful and very reliable?—A. I think that he is. I think that we paid \$1 a barrel, but I would not be certain. I may forget the exact amount.

Q. We had Mr. Maguire here the other day—would you be surprised to find that the price paid was 30 cents or 40 cents a barrel?—A. Yes, but I think it was more than that.

Q. But you are not sure?—A. No; I told you so.

Q. If it was 40 cents a barrel, then the expense you spoke of would be much different?—A. Yes, it would be somewhere near 90 cents.

Q. What other expenses have you to meet?—A. There is the packing home and the labor to be paid for.

Q. But you have to do all that if you take the fish home?—A. Then, however, we are not charged for it.

Q. You do it yourselves?—A. Yes.

Q. But you cannot fish while you are attending to these matters?—A. No.

Q. The payment of the freight is the main thing at any rate?—A. Yes, and the expenses home.

Q. To that expense you would be put in any case if you took the fish

home yourself?—A. No. They charge for labor done, which when at home we do for ourselves.

Q. But you have to take time to do it?—A. Yes.

Q. And you are catching fish while this is being done?—A. Yes.

Q. The expenses are very small at Canso, at Maguire's?—A. O, yes; Mr. Maguire is a nice man.

Q. And the expenses there are very small?—A. Yes; but we have to buy barrels and things.

Q. With whom do you deal at Canso?—A. I have dealt with Maguire for two or three seasons.

Q. And that is where you spent the \$100? Are you sure of that?—A. I am sure of it. I spent \$100 and more too.

Q. During one year?—A. Yes, and more than that.

Q. I mean on the average every year?—A. Yes, I could swear that I spent one hundred dollars.

Q. You said you spent \$100, and that the crew spent each \$4 or \$5?—A. Yes, while in the bay for a season, but not at Maguire's. That was for the whole season through.

Q. Would you find vessels which had been in the fleet around the Magdalen Islands, fishing off Malpeque and Souris, in Prince Edward Island, and at Port Hood and other places? Would you find any of the vessels that fished at Malpeque, Souris, Cascumpeque, and other ports fishing for mackerel at the Magdalen Islands?—A. Well, most of the mackerel catchers go all over the bay.

Q. We find that some that go to these places do not go to other places. Have you ever fished in the Bay of Chaleurs?—A. Yes.

Q. Once?—A. O, no; but a good many times—half a dozen times.

Q. Are you able to see any vessels which had been fishing in the Magdalen Island waters fishing at Malpeque, Souris, or Cascumpeque?—A. I never knew of any vessel catching any fish at Souris in my life.

Q. Or at Malpeque?—A. O, yes. I have known of fish being caught there.

Q. And at Cascumpeque?—A. Yes.

Q. And why not at Souris?—A. I never heard tell of mackerel playing around Souris.

Q. We had a man here who said that a man on snow-shoes could walk over them there in the water, and that one vessel got 200 barrels there in a day?—A. I never heard tell of them being there.

Q. You never tried there for fish?—A. No.

Q. Have you understood that it is a great fishing place?—A. This is the first I ever heard of Souris being a place for catching mackerel—that is a fact.

By Mr. Whiteway:

Q. When did you first fish on the Banks of Newfoundland—in 1873 or 1874?—A. 1874 was the first year.

Q. And you have fished there in 1874, 1875, and 1876, and this season?—A. No, sir. I have been there three seasons—those of 1875, 1876, and 1877.

Q. You did not fish there in 1874?—A. No, I was not fishing that season.

Q. Why were you induced to leave mackerel fishing and to go to the Banks of Newfoundland to fish?—A. I thought that I would take a change; that is all.

Q. Was it not because you thought it would be a more profitable operation?—A. No. During the year of the gale a friend with whom I

went was lost, and then I was employed by the firm of Mansfield, who wanted his vessels to go cod-fishing; and so I went.

Q. You are now, and have been since 1874, in one of Mansfield's vessels?—A. I was fishing there during 1875 and 1876. I commenced in the fall of 1874.

Q. Did you go the Banks to fish in 1874?—A. No.

Q. During the last fifteen years you have gone to Fortune Bay during the winter for herring?—A. Yes; but not all the time as master.

Q. You went there the first year you were in the Fashion?—A. I was never there in the Fashion. I was fishing for mackerel in her, but I did not go to Newfoundland. She is the first vessel of which I ever was master.

Q. During what months in the winter do you go to Fortune Bay for herring?—A. We leave home for that place about the 25th of November, or toward the last of the month.

Q. And how long do you remain here?—A. We generally leave there about the middle of January.

Q. And during the time you are there you get your winter herring, as you call them?—A. Yes.

Q. How much a barrel do you pay for them?—A. From \$1 to \$2.

Q. What did you pay a barrel for them last winter?—A. \$2.

Q. And what did you pay the previous winter?—A. About \$1.50.

Q. And the winter previous to that?—A. Six shillings, or \$1.20.

Q. And the winter still previous?—A. About six shillings.

Q. What measure do you use—the American or the Newfoundland?—A. Well, when herring are scarce, we take what the people give us.

Q. Is not your measure smaller than theirs?—A. No; I think that ours is a little bigger than theirs.

Q. If the people of Fortune Bay swore that the value you gave them for the herring was only about 75 cents a barrel, would you be prepared to come here and swear directly the contrary?—A. Yes, I should.

Q. Against all the people of Fortune Bay?—A. Yes.

Q. What was the size of the vessel in which you generally went to get your winter herring?—A. Well, I have been there in vessels varying from 108 tons to 66 tons; the former was the biggest and the latter the smallest.

Q. What has been the size of the vessel in which you have gone there during the last few years?—A. During the last two winters I went there in my present vessel, which is of 73 tons; and the winter previous I went there in a vessel of 90 tons.

Q. What quantity of herring did you take in this vessel of 73 tons?—A. Five hundred barrels of frozen herring; they take up the room each of about two barrels of salt herring.

Q. Is that the largest quantity of herring that you have ever taken from there?—A. No; I have taken about 800 barrels.

Q. That was when you were in a vessel of 108 tons?—A. Yes.

Q. But you usually take about 500 barrels?—A. Yes.

Q. How do you make out that you pay out \$1,000 from the time you go down there?—A. I said that I paid out \$1,000 last winter.

Q. I understood you to say that you generally left \$1,000 every winter that you went down there; in this was I mistaken?—A. Yes; I said I did so last winter.

Q. Then you do not leave \$1,000 there every year that you go down to Newfoundland?—A. Not quite, but last winter I did; that is what I left for herring, besides light-dues, customs-fees, &c.

Q. What is the average size of the vessels which go to Fortune Bay ?—
A. I think about 80 tons.

Q. And so they usually pay the same price for herring that you do ?—
A. They pay about the same.

Q. I think you have said something about their being a half starved race in Newfoundland ?—A. No, I did not say that. I said that they would be starved if it was not for the Gloucester vessels which go down to Fortune Bay.

Q. If it were not for your presence there then they would be starved ?—
A. I said that one-half of the Fortune Bay people would starve if it was not for the Gloucester fleet coming down there during the winter.

Q. If it was not for you they would starve ?—A. One half of them would.

Q. And you pledge your oath to that ?—A. Yes.

Q. You pledge your solemn oath before this Commission that such would be the case ?—A. If we did not go there they would be on the list for St. John, which would have to send them meal.

Q. I only ask you whether that would be the case or not ?—A. I would not swear that they would starve to death if we did not go there.

Q. You said so just a moment ago, and now you retract the statement ?—A. The people would go pretty hungry if we did not go there.

Q. Then, I suppose that when we went to fish on the miserable mackerel fishing grounds of the Gulf of St. Lawrence you were starved too ?—
We always had plenty to eat.

Q. Was it not a profitable business, and did you not make a very handsome thing out of the mackerel-fishing business ?—A. I made enough to live on.

Q. And you are worth money now ?—A. No. You can tell that from the look of me.

Q. Are you not comfortably off and worth money ?—A. No. You hardly ever find a man who goes fishing worth money.

Q. And profitable as the mackerel business was, you thought that cod-fishing would be a still more profitable operation, and so you went into it ?—A. I thought I would have a change, and so I went cod fishing.

Q. You say that you left Gloucester in the spring of 1875 and 1876 to go to Newfoundland to get your bait for the prosecution of the cod-fishery ?—A. Yes.

Q. And you did not bring any salt bait from Gloucester ?—A. No, not this year.

Q. Suppose that you had brought salt bait from Gloucester, what would you have given a barrel for it ?—A. Perhaps from \$2 to \$3 or \$5.

Q. How much bait would you have taken, suppose you had taken sufficient bait to prosecute your whole summer banking operations until your return with the first voyage ?—A. I could not tell you.

Q. Would you have taken 100 barrels ?—A. No.

Q. Would you have taken 200 ?—A. I tell you what the salt-bait fishermen generally carry, and that is about 30 barrels. That is what I am told on the Banks.

Q. You do not mean to say that 30 barrels of salt bait would catch a cargo of codfish ?—A. They also get bait on the Banks.

Q. Do you know anything about it yourself ?—A. I know no more than what they tell me. I know nothing about it, because I never used it.

Q. Where did you go for the herring which you purchased in the spring ?—A. For the first baiting this year I have paid \$52.50.

- Q. How many barrels did you then get?—A. About 27.
- Q. Then you went to the fishing-grounds?—A. Yes.
- Q. And afterwards came in to rebait?—A. Yes.
- Q. Where did you get the bait then?—A. At Fortune Bay.
- Q. And you again obtained herring?—A. Yes.
- Q. What did you pay for it?—A. Thirty dollars.
- Q. Did you then complete your codfish voyage?—A. No.
- Q. You still again came in for bait?—A. Yes.
- Q. What did you do afterwards?—A. I came in again and got caplin.
- Q. Where did you go then?—A. I went to Torbay, northeast of St. John, and got bait and ice. I obtained ice and caplin there.
- Q. What did you pay for them?—A. I think \$36.
- Q. Then you again went to the Banks?—A. Yes.
- Q. Did you finish the voyage on this occasion?—A. No; I came back again.
- Q. For squid?—A. Yes; to Torbay.
- Q. What squid did you get?—A. I bought \$110 worth.
- Q. Where?—A. At Torbay.
- Q. How much did you pay for it?—A. Thirty cents a hundred; that was for ice and all.
- Q. At what time of the year was this?—A. In July.
- Q. That price included ice?—A. Yes; my bait and ice cost me \$110.
- Q. You went out then to the Banks, and did you complete the voyage?—A. No; I went in again.
- Q. For what?—A. Squid.
- Q. What did you do then?—A. I obtained the squid, and paid out about the same sum of money that I did before for ice and bait.
- Q. Did you now go out and complete the voyage?—A. Yes; and I am now on my way home.
- Q. With a full cargo?—A. My cargo is not quite a full one.
- Q. How many fish do you think that you now have?—A. About 175,000.
- Q. And what is the tonnage of your vessel?—A. 73 tons.
- Q. I believe that this has been a peculiarly unsuccessful season on the Banks?—A. Fish have been scarce this year.
- Q. They have not only been scarce, but they have also been very scarce?—A. Yes. Last year I made two baitings, and I obtained bait—squid—on the Banks.
- Q. Last year you obtained a full voyage with two baitings?—A. Yes.
- Q. Did you then go on a second cod-fishing voyage?—A. Yes, but I did not get a full fare in the fall.
- Q. What did you get on your second voyage?—A. An average share of the fleet was on the Bank, and I got 60,000.
- Q. That is about half a voyage?—A. It is about one-third.
- Q. And for this catch of 60,000 did you have two baitings?—A. I had one baiting. This was the fall trip. I made two baitings on my first trip.
- Q. And on your last trip you made three baitings on the coast of Newfoundland?—A. Yes. All the bait I took I got in Newfoundland.
- Q. You obtained 60,000 on your second trip, and what did you get on your first voyage last year?—A. 140,000.
- Q. You obtained 200,000 on the two voyages?—A. Yes.
- Q. You consider salt bait superior to fresh bait, I believe?—A. O, no; I think that fresh bait is the best.

Q. You do admit, then, that fresh bait is the best?—A. O, certainly, when other vessels on the Bank have it.

Q. When codfish see fresh bait they prefer it to salt bait?—A. Yes.

Q. Consequently, you admit that it is of some advantage to you to be able to go to the coast of Newfoundland and get fresh bait?—A. O, yes; certainly it is; and our going there is an advantage to your people.

Q. Do you not now consider that it is a very great advantage to you to be able to go there and get ice in which to preserve the fresh bait?—A. Yes.

Q. Do you throw overboard any of your small fish at the Banks?—A. We saved them all this year. I have thrown some of them overboard.

Q. Are all the fish you caught large?—A. No; we got some small fish.

Q. What did you do this year with the small fish?—A. We have them on board the vessel.

Q. What are you going to do with them?—A. I am carrying them home.

Q. Of what size are the small fish?—A. I think they are 18 or 19 inches long.

Q. Are they as small as that?—A. Yes.

Q. Have you sold any of them in Newfoundland?—A. Yes.

Q. What did you get a quintal for them?—A. \$1.40.

Q. Have you sold any cod-oil in Newfoundland?—A. No.

Q. Do you not think that it would be a very great advantage to you to be able to transship your fish into vessels at Newfoundland and send them to market?—A. O, no.

Q. Would it be no advantage whatever to you?—A. I would not care about it. I would rather lug them home.

Q. You would rather continue to bait your vessels at Newfoundland until you get a full voyage, and then go home with it?—A. Yes.

Q. Your experience of the Bank fishery only extends over the period since 1875?—A. Yes; and I do not think that I will trouble it any more. I do not like it.

Q. Have you not made a very handsome profit this year?—A. I have made enough to keep me going.

Q. You caught 200,000 last year and 175,000 this year, and I am sufficient of a fisherman to know that these will yield you a handsome profit?—A. Hardly, for a vessel like ours.

Q. Do you calculate on dried fish?—A. I have 175,000 green: this is the way in which I sell them out of the vessel at home.

Q. I believe that the Bank fishing operations have been very profitable to the Americans heretofore—and previous to the Washington Treaty, when they only used salt bait?—A. Better fares were got on the Grand Banks before they ever commenced running fresh bait than has been the case since.

Q. Were not the American Banking fishing operations a profitable business prior to the Washington Treaty—you know as well as I do that this was the case?—A. I cannot tell you about the Banking business.

Q. What induced you to go into these Banking operations—was it not because you knew that it was a profitable business with salt bait, and because you knew that it would be still more profitable with fresh bait?—A. O, no. I did not think anything about it. I have told you the reason why I went. I lost a friend in the gale, and then I went into the employment of Mansfield, who wanted his vessels to go cod fishing.

Q. Will you swear that Bank fishing operations were not a profitable

business prior to the Washington Treaty?—A. No, I would not swear that.

Q. Has this not been a more profitable business since that treaty?—A. I could not tell you anything about it.

Q. You know something about the curing of fish, I believe?—A. I tried to cure the voyage this summer, but I do not know whether I have done it right or not.

Q. But you do know something about it?—A. Yes.

Q. How long do you keep the fish exposed to the sun at home in the process of curing?—A. About four days, I think; but I would not be certain on the point.

Q. And the fish is then considered fit for your, the American, market?—A. Yes; the time might be a day longer. It all depends on the weather. I think that four good days are quite sufficient for the purpose.

Q. Is not a profit made by the owner of the vessel, in the difference between the amount at which he pays off the crew and the amount which the fish is naturally worth in the market at the time?—A. Sometimes he makes something, and more frequently he does not. It all depends on the market. Sometimes he may pay \$3 a hundred for the fish and get about \$4, and then he loses money; he cannot make anything under such circumstances.

Q. But usually does he not pay off the fishermen at a less amount than the fish is naturally worth in the market at the time?—A. No. He generally pays them all he can afford to, as far as I can see. When you come to figure up their labor, the cost of the salt, and one thing and another.

Q. Are you now in a position to estimate what it will cost per quintal to cure the fish, as you have stated they are cured?—A. Well, no, I could not; but it will take a good many dollars when the expenses are figured up. I forget them.

Q. How was it just now that you could arrive so quickly at the estimate of \$1.50 a barrel as the cost of transshipment?—A. I thought that was what I paid the first year I transshipped.

Q. How did you arrive at it so quickly?—A. Because I thought it cost us that much.

Q. Before you came in here did you not, in conversation with Captain Bradley, agree as to the price you would so pay?—A. No. I did not say one word to Captain Bradley, any more than to bid him good day.

Q. Then you did not confer with him before you came here?—A. No.

Q. How did you arrive at the amount of \$1.50?—A. I think we paid about one dollar freight per barrel one year.

Q. You thought so?—A. I think I did so the first year I shipped mackerel.

Q. And do you mean to say that 50 cents a barrel was paid for the labor of transferring the barrels from one vessel to another?—A. That was for the labor at home, on the wharf and ashore.

Q. But the labor at home was the same, whether you transshipped or took the fish home in your own vessel?—A. It was paid because the work had to be done at home.

Q. But the labor would be the same, and it would cost the same whoever it was done by?—A. I suppose so.

Q. You have said that you only used caplin bait?—A. Yes.

Q. And do you not consider that it was good?—A. It did not suit me for bait, and I will never be bothered with caplin again.

Q. Do you not know that American Bankers prefer calpin for bait?—A. O, Yes.

Q. It keeps very well in ice, I believe?—A. What we had did not. Probably I did not understand icing it, or something of that kind.

Q. But what other American captains have had has turned out well, according to their report?—A. I have not heard of any this year with whom it is the case.

Q. According to their reports it has turned out well?—A. I have heard of none that has turned out well this year.

Q. How many American vessels did you see this year getting bait, herring, &c., on the coast of Newfoundland?—A. I saw probably six or seven sail.

Q. That was when you were in here?—A. It was during all the year.

Q. Did they not consider that it was a great advantage for them to be able to get fresh bait there?—A. Certainly it was an advantage, else they would not go there. They carry the bait out to the Banks, and those that do not do so get along without it.

By Mr. Foster:

Q. Your small fish will be sent westward?—A. Yes.

Q. How many squid did you catch on the Banks last year?—A. I caught one-half of our fare with the squid which I got there last year.

By Mr. Whiteway:

Q. Had you a herring-seine on board your vessel last year and this year?—A. No; I never carry one.

Q. Do not many of your vessels take herring-seines to Newfoundland and seine herring?—A. I am not aware of it.

No. 3.

FRIDAY, August 31.

The conference met.

S. F. CHENEY, of Nantucket Island, Grand Manan, called on behalf of the Government of the United States, sworn and examined.

By Mr. Foster:

Question. State your name, residence, and occupation.—Answer. My name is Simon F. Cheney, from Grand Manan Island, and my occupation passes for that of fisherman.

Q. You are a British subject?—A. Yes.

Q. How many years have you been a fisherman?—A. Well, as near as I can judge, I first tried to catch fish when I was 15, and I am now 63 within a few months. Somewhere about 45 years.

Q. What have you fished for?—A. I have fished in boats for the support of my own family; to buy necessities for my family.

Q. What kind of fish?—A. Codfish and pollock principally, and we have smoked herrings; that is, of late years; we did not at first.

Q. What becomes of the fish you catch besides what is eaten in your own family?—A. We market them, of course, to what we suppose the best advantage.

Q. To whom do you sell them?—A. We sell them sometimes in St. John; we used to. We have carried them to Eastport of late years, provided we could not do better. We have taken some to St. Andrew's.

Q. Where is the principal market for your herring?—A. Our principal market for herring? Well, smoked herring I have gone into mostly. I have never gone into the line of pickling herring but very little.

Q. But you know, I suppose, where the principal market is for the herring taken in your vicinity?—A. Well, so far as I have knowledge, I should suppose it would be in the American dominion.

Q. What kind of herring go there?—A. We go to Eastport. Of course, if we have pickled herring, we can dispose of them there to the best advantage.

Q. How far is it to Eastport?—A. We call it 20 miles from the side of the island where we live.

Q. How large a quantity of smoked herring is produced in your vicinity?—A. About the island of Grand Manan?

Q. Yes.—A. It varies. Some years there are more, and some years less. I never have undertaken to make any estimate of it; but it has been talked of among us that two or three hundred thousand boxes have been produced.

Q. What proportion of these is sold in the Canadas, and what proportion in the United States, as far as your judgment goes?—A. I am not prepared to say, because I never go into such markets myself. I sell to nearer markets.

Q. You do not know whether more go to the United States?—A. No. I never went myself, even so far as Portland.

Q. Then your answer is that you don't know?—A. Yes.

Q. What do you know about frozen herring? What becomes of that?—A. We sell it from our own vessels sometimes. Mr. Gaskill, I think, was the greatest trader of our folks to send them away.

Q. To whom do they sell them?—A. They generally make their count to sell the frozen herrings to the Americans that come there.

Q. Well, is the trade with the Americans in frozen herrings, which your people have, a valuable one to your people?—A. It is considered so; yes, sir.

Q. If they did not sell them to the Americans, would they have a market for the frozen herrings?—A. I don't know of it. I don't know that they could have.

Q. How has the price of smoked herring stood of late years? Has it been high or low?—A. Well, for the last two or three years it has been quite low.

Q. What is the reason?—A. Well, our folks talk as if it was the dullness of the times.

Q. Is there abundance of it?—A. Herrings? There appears to be full more than is made a good use of.

Q. How much do the Americans fish for herrings in British waters, in your vicinity? Do they buy more than they catch, or catch more than they buy?—A. They buy more than they catch, as far as my knowledge goes.

Q. What do they pay your people in?—A. Well, they bring flour with them, and, if we choose, a man that wants flour takes it, and if not, they give money.

Q. Well, when the Americans catch herring to freeze, how do they freeze it? Do they freeze it on shore, or on the vessels?—A. I could not correctly answer. No, I never knew them freeze it on shore. They freeze them on deck.

Q. They do not land to do it?—A. Not to my knowledge.

Q. If your people were cut off from the American markets and could not sell their fish there, what would the effect be upon them?—A. Well, it is looked upon that we should be in poorer circumstances than we are now. I have talked to some on that subject. They think we are in a better standing than when we were paying the duty. As for myself

and my family, we are poor folks and would not be able to go into a large branch of the fishing business. It puts us in a good deal better position.

Q. Has the general condition of your fishermen become better or worse since the duty was taken off?—A. I think they are better off. I think they would consider themselves in a better condition.

Q. Which do you think is more for the interest of your people, to allow the Americans to fish alongside of them and to have the American market free of duty, or to exclude the Americans from British waters and be subjected to duty in the American markets?—A. I do not know how I could answer that. Probably it would not be an answer suitable to the question, what I would say. Would you ask the question again?

Question repeated.—A. I should say it is better not to pay the duty. It is better as it is.

Q. Then you prefer the condition of things under the Treaty of Washington?—A. Yes.

Q. Now, suppose that American vessels were not allowed to come to your people to buy in their harbors frozen herring, how would you be able to dispose of them? What could you do with them there?—A. As I have said before, I do not know what they could do with them. If we would have to take them to Eastport, we would run the risk of losing them. We could not take them there in our small boats, and would have to pay somebody freight, and by shipping it about, it would be liable to be lost.

Q. In your part of the country who began using the trawls; the Americans or the British?—A. Well, now, I could not decidedly say that I would be correct, but the first trawls that were used about Grand Manan, to my knowledge, were used by our own people. I never knew of trawls being used inside of our fishing-grounds until our own people used them. I have spoken against those things, and I never did it in my life.

Q. Do you find pogies in your waters?—A. We find them somewhat scattered. We could catch them sometimes, but they are scattered, and sometimes we would not see one in a whole season's fishing.

Q. How many American fishermen have you seen catching fish in your waters this year?—A. This year I haven't seen many. This last week, before I left—I was at Eastport on account of sickness. Before I left I heard that the fish had come in there, and that some had caught three quintals to a boat. No vessel had come in so far as I saw except to get bait.

Q. Codfish you are speaking of?—A. Yes.

Q. You smoke herring yourself, don't you?—A. I have all along until the last two years. My sons do.

Q. Who takes the herring that you and your sons secure?—A. We used formerly to send them to Eastport.

Q. Do you sell any of them now in Canada?—A. I never sent any to Canada but once, when Wilson was living at Campobello Island.

Q. In the Dominion anywhere, I mean?—A. Well, I have said that I sold a few in St. John occasionally.

Q. Now, do you think the fish of various kinds taken at Grand Manan would find a market in the Dominion of Canada, or would they oversupply the market of the Dominion?—A. Well, to the best of my judgment I suppose they could not find a satisfactory sale for them all here.

Q. Is there an abundant supply for your fishermen?—A. Of fish, yes.

Q. Now, I did not like to ask some of the witnesses that we had here the other day from your neighborhood as to their own pecuniary condition, but I would like to know whether Mr. McLaughlin, Mr. McLean, Mr. Lord, and those other gentlemen that have been examined before the Commission here are growing poor or improving their financial condition?—A. I can't say I am acquainted with Mr. Lord or McLean. I have seen them, but not to have acquaintance with them.

Q. How about Mr. McLaughlin?—A. I have been acquainted with him from a boy.

Q. Well, he is prosperous, is he not?—A. Yes; he seems to be. He is not a fisherman. I think he once made an estimation in regard to this subject.

Q. Is not he in the fishing business?—A. I do not know that he ever hove a line.

Q. You have spoken of smoked fish going to the United States. Where does the herring-oil go?—A. They do send some of that, too.

Q. What is done with the hake sounds? Is that an important matter?—A. It is. It is a more paying product than the fish itself. I saw them sold at Eastport for 50 cents a pound.

Q. What do they do with those?—A. They manufacture them into different things.

Q. Do they make gum-drops out of them?—A. Some do.

Q. Isinglass?—A. Yes.

Q. Do you say the hake sound is worth more than the fish?—A. Well, three weeks ago they would not offer but 75 cents for 262 pounds of green hake, but they would give 50 cents a pound for sound. Then for the livers they would get 40 cents.

Q. Then the gurry of the hake is worth more than the fish?—A. Well, it is not exactly gurry.

Q. I have one question more to ask. Do the American fishermen down in your neighborhood behave any worse than the British?—A. I think not. I think I have had worse people in my own boats. Some years ago we did have some from Cape Ann who killed fowls and pulled up potatoes. But we never had any half so bad as some of our own. Some from Deer Island. They killed tame ducks right in the yards.

By Mr. Thomson:

Q. You live in Grand Manan?—A. Yes.

Q. You are not a practical fisherman yourself. You do not fish?—A. I have not for two years. I just left the smoked herring to the boys.

Q. All that fishing is done in weirs?—A. The herring has been.

Q. You had weirs on the shore? That is the way you chiefly conduct your fisheries?—A. Mine is an inshore weir. Some are away out in the deep water.

Q. Then I understand that you have not ever pursued as a business fishing in boats, but always in weirs?—A. No, not so. My line-fishing was boat-fishing.

Q. To what extent have you ever carried on boat-fishing?—A. Well, I have said, nothing more than principally to support my family. I fish to get some little necessities for my family.

Q. I suppose every man on Grand Manan who owns a bit of land would, during his leisure time, take his boat and get as much fish as he could for his family?—A. They ought to, unless they have something to prevent them.

Q. There are many persons there who make a business of fishing altogether?—A. Yes.

Q. You are not one of those?—A. No; I never lived solely by it. I always had a little bit of land to work.

Q. And during your leisure moments, when you did not require to be occupied on your farm, you fished enough to get fish for your family? That is the whole story? You fished to get enough for your family?—A. It was for the support of my family.

Q. Do I understand that you got more fish than was consumed in your family?—A. O, yes.

Q. How many herrings would you get in the course of a year?—A. Smoked herrings? I never put up over 3,000 boxes a year; sometimes not over 2,000.

Q. What would they be worth a box?—A. That would be hard to answer. Sometimes we have sold them as high as 30 cents, and sometimes as low as 10 cents.

Q. Do you mean that since you have pursued the fisheries you have got an average of 3,000 boxes?—A. No. I never got higher than that. I only own a small part of a weir.

Q. All those were taken in weirs, were they not?—A. Yes.

Q. Those weirs are on the land, are they not, between high and low water mark?—A. Some are built in the tideway.

Q. The inshore weirs are what you use?—A. Yes.

Q. Not the tideway weirs?—A. No.

Q. Your weir is between high and low water mark?—A. It is very near the low-water mark.

Q. It was in those weirs that you took the bulk of your herring?—A. Yes.

Q. Of those, you say you put up sometimes 3,000, and sometimes not over 2,000 boxes?—A. Just according as the catch of herring comes. The catch is a great deal less some years than others.

Q. You did not, as a rule, fish in your boats for the purpose of putting up herring?—A. Not of late years. Not since we built weirs. We used to.

Q. How long was it since you did begin to use the weirs?—A. The first weirs were built, I should suppose, on Grand Manan, as nearly as I can come at it, about 37 years ago.

Q. Since that time you haven't fished in boats at all?—A. We have not fished in boats for herring.

Q. What time did you yourself commence to use these weirs?—A. I helped to build the first weir that was built.

Q. After that you ceased to fish in boats, and depended upon the weirs?—A. You understand our weirs do not fish at all times. My weirs seldom or ever fish until September.

Q. After you commenced to use these weirs did you depend upon them for your supply of fish?—A. No, I could not depend upon the weir solely, because they did not always fish. It is only for two or three months. They would not get herring enough to pay expenses and support a family. I had to take a boat.

Q. Would you in September take a boat and fish in each year?—A. All along through the summer, before the weirs fished, we would do so. I do not mean by that before the weirs were built, but before they began in each season to catch fish.

Q. What time would that be?—A. They would begin about September.

Q. This year have you taken any fish in weirs?—A. No.

Q. Have you been fishing in boats?—A. I have not myself; my boys have been.

Q. What kind of boats do they generally use?—A. Various sizes. There are a great many large two-sail boats with a jib on them.

Q. What kind of boats have you used for the last eight or ten years?—A. I never used anything but small boats. I did not fish the last two years at all.

Q. You don't go out to take herrings?—A. Well, we generally have a skiff and a separate boat.

Q. Have you a skiff or a boat?—A. I have a keel-boat for fishing on a flat bottom for the herring fishery.

Q. For the herring-fishing you used a skiff?—A. Yes.

Q. How far from the shore do you obtain your fish—I now refer to herring?—A. We go to our weirs.

Q. I am not speaking of the weirs. You say you get no fish in your weirs until September?—A. I don't try to fish in boats until the herring come into the weirs.

Q. Then I understand you to say that you do not attempt to catch herring with boats, but you only use boats to take the fish from the weirs?—A. That is what we do.

Q. As regards the herring, you do not take them till September?—A. Yes, the weir herring.

Q. Did you ever go out with your skiff and take herring except out of your weirs?—A. Not in our weir skiff.

Q. We will dismiss the skiff from our consideration and make the acquaintance of the boat. Did you go out in the boat to catch herring?—A. We went out to the Ripplings to look for herring.

Q. Have you gone out to the Ripplings during the last ten years?—A. No; I have not.

Q. How long is it since you last went out there?—A. I cannot tell.

Q. Twenty years ago?—A. Probably 12 or 14 years ago.

Q. Have you got that boat yet?—A. No.

Q. Have you got any boat in place of it?—A. Yes; another which we use for that business.

Q. For what do you use the new boat?—A. Not to go herring-fishing.

Q. For what do you use it?—A. For cod-fishing—line-fishing.

Q. I understand that all the fish you have taken for the last 14 years are fish taken with your skiff and out of your weirs?—A. That is herring-fishing. I cannot say I have myself taken my boat and gone to catch anything in any other way except out of my weirs.

Q. And you do not begin to do that till September?—A. Yes.

Q. How early in spring do the herring strike in at Grand Manan?—A. It varies a great deal.

Q. What time did they strike in this year?—A. This spring they did not strike in until late.

Q. Where did they strike in?—A. At North Head. You are speaking of the weir fish?

Q. I am speaking generally of herring.—A. The net herring and small weir herring are different. We look for the herring striking first at North Head.

Q. What is the difference between the North Head herring which strike in in the spring and weir herring?—A. For spring herring a two and a half inch mesh is used, and for weir herring a two inch mesh.

Q. Then I understand that the weir herring is a small and inferior herring compared with the other?—A. At times they are; they are mixed schools.

Q. Take them as a body, are the herring taken in weirs inferior?—A. The herring are inferior, as they are so very different in size. We get mixed schools. Not one-half can we string to cure. Our weir herring are small. They are not so large as net herring.

Q. As a rule, are not weir herring inferior herring?—A. They are, because they are mixed. Large and small mixed cannot be as valuable as herring of a regular size.

Q. Then herrings taken in nets are large herring?—A. The meshes of the nets are large enough to allow small herring to go through; but in the weirs we take all kinds.

Q. The boat fishermen don't care to take the small herring?—A. Not while it is netting time.

Q. The herrings they generally put up for export are large?—A. Yes, those they barrel, unless they freeze some in the winter season.

Q. The trade in barreling fish is one you have not engaged in?—A. No.

Q. You have applied yourself solely to the trade in small herring put up in boxes?—A. Yes; to the weir fish.

Q. Then, in point of fact, you cannot speak from any experience or knowledge regarding the trade in large herring?—A. I have had no experience in that.

Q. Then the opinions of persons actually engaged in it would be worth four times as much as your opinion?—A. I suppose so. I should say the man who had always been in the business would be the man who would be the best judge.

Q. Take Mr. McLaughlin, the overseer of fisheries there, is he not a man of great experience in all kinds of fishing?—A. He may have engaged in fish trading, but he does not fish. I do not know that he ever fished. I would not swear that he has not done so.

Q. How far does he live from you?—A. Fifteen or sixteen miles.

Q. What he does you cannot have any credible knowledge of, unless you always keep an eye on him?—A. He has not attended to fishing since he got the light-house.

Q. Do you undertake to say that he did not fish before he took charge of the light-house?—A. Before that time I do not know what he did.

Q. Do you know whether he did or did not fish?—A. I cannot say.

Q. He is the officer who went round and got statistics of all the fish caught on the island?—A. I think I recollect that he took some estimate of the fish.

Q. He is fishery officer, and that is his business?—A. He did that.

Q. He went round to find out what your annual catch was?—A. I think so.

Q. He went over the island?—A. I think he did.

Q. He is a man of good, strong common sense, a decent, practical man?—A. I suppose so.

Q. He is county councilor for your county?—A. I cannot recollect; I was not at any town meeting.

Q. You live on the island and you cannot tell who your county councilor is?—A. I have not inquired this season. I was not able to go to the meetings.

Q. Don't you take sufficient interest in your public affairs, even though you did not attend the meetings, to know who was elected?—A. I do not think I have seen Mr. McLaughlin since.

Q. Do you not know that the county of Charlotte has ceased to be governed by justices, and has become a municipality, governed by councilors?—A. I have heard it talked of. I heard Mr. Newton and Mr.

McLaughlin were the two men elected. I was not able to go to the meetings. I never made inquiries, and I have not seen Mr. McLaughlin since.

Q. Are your dealings chiefly with the Americans, and do you take more interest in their affairs?—A. My dealings with them are small; the amount depends on what I catch.

Q. You know more what is going on at Eastport than at St. Andrew's, your own county town. Do you ever send any of your fish to St. Andrew's for sale?—A. Sometimes we sell some there.

Q. Did you ever sell any of your own there?—A. I probably sold a few quintals some years ago; I don't recollect.

Q. You sell your fish altogether at home?—A. Not at home. I ship my fish principally to Eastport, some to Boston.

Q. Do you ship them on your own account?—A. I call it shipping when we send them in vessels.

Q. In what vessels do you send them?—A. In the vessels of the two Duttons and Mr. Ingles.

Q. Do those three gentlemen send their vessels to Boston?—A. Yes. They get freight from different people who have fish to send.

Q. Did you send any last year?—A. Yes.

Q. Did you sell them better at Boston than you could have done at Eastport or St. Andrew's?—A. I don't think it paid better to send them to Boston: it paid about as well as sending them to Eastport. The freight is high to send them there.

Q. Did you sell any at St. Andrew's?—A. No.

Q. Can you state how many barrels of pickled fish are put up on the island?—A. No.

Q. Can you state what is the catch of fish at the island? How many barrels of herring are pickled and put up at the island?—A. I think scarcely any were caught there last year.

Q. Take last year; how many barrels of pickled herring were put up at the island?—A. I could not tell you, because I have not been fishing for some time.

Q. Cannot you form any idea?—A. There might be 100 barrels put up somewhere that I would know nothing of.

Q. Have you any idea what your catch of herring might be at the island?—A. I could not give it; some years they are plentiful and other years they are very scarce.

Q. Can you give the catch for any year?—A. No.

Q. I will take Campobello; can you state how many barrels of herring were caught there any year?—A. I could not; I have no means of knowing.

Q. Take the parish of West Isles; do you know how many were taken there any year?—A. I never fished in Passamaquoddy River. I have known of fish having been taken there.

Q. The fish taken there, I believe, are principally herring and had-dock?—A. I understand pollock.

Q. Is pollock taken in great quantities there this year?—A. Yes.

Q. Can you state how many boats are employed fishing all round your island?—A. I cannot.

Q. Do you know anything whatever about the fishing on the main-land, in the parish of St. George and Lepreaux?—A. No.

Q. Do you know what is the population of the city of Quebec?—A. I could not say.

Q. Can you tell what is the population of the city of Montreal?—A. No.

Q. Have you any idea at all?—A. I have not.

Q. Can you give the population of Toronto or Ottawa?—A. No; I never was in those parts.

Q. Will you tell me why it was, in answer to Mr. Foster, that you undertook, on your oath, to say the catch of fish is so great on your shores that if excluded from the American market there would be no market for them in the Dominion, when you did not know the population of the Dominion cities?—A. We have tried to sell our fish in the Dominion; we sent some up to Canada—to Quebec; some did not pay for the freight. The fish were smoked herring. We have tried to sell them in the Dominion, but found they failed to fetch as much in our markets as in the American markets. If they could not be sold to pay us, they would not pay people to buy them from us at high prices.

Q. When was this notable year when you sent some smoked herring to Quebec?—A. Some years ago.

Q. Cannot you give the year?—A. I sent the fish by Mr. Wilson, of Campobello. I suppose it was 15 or 16 years ago.

Q. Can you state whether, at that time, there was not a duty levied in Quebec against New Brunswick fish, for that was before confederation?—A. I don't know, and cannot say as to the duties. They were No. 1 herring, and did not pay expenses.

Q. When you said you sent them by Mr. Wilson, did you mean the late John Wilson, esq.?—A. I meant Mr. Edward Wilson, who was drowned.

Q. Was he an island man?—A. He was a Campobello man.

Q. That is the only venture you made in sending fish into Canada. You sent smoked herring, some so small you could not string them?—A. The herring I sent there were not small. The herring put in boxes must be big enough to string and cure.

Q. Were they not so small you could barely string them?—A. The herring were large enough to string and cure. What I before said was that many herring came into the weirs which are too small to go on the rods.

Q. That shipment was made 15 years ago, and you have never tried the experiment since confederation?—A. Not myself personally.

Q. And yet, notwithstanding that you made only one experiment in sending fish to Canada, and that 15 years ago, before confederation, you testified, in answer to Mr. Foster, that you could not find a market in the Dominion if you were shut out of the American market?—A. When we sell herring at St. John we do not sell them to so good an advantage.

Q. When have you sent herring to St. John?—A. I have not sent any personally.

Q. Who did?—A. The people of Grand Manan take some up.

Q. Tell me a single man who has done it.—A. Mr. Morse, of Whitehead Island. He took up one or two lots of herring during the past winter.

Q. What kind of herring?—A. Smoked No. 1 herring.

Q. You were asked by Mr. Foster how, if the American market was closed, you would go on, and so forth. Do you know anything about what fish can go into the United States free under the Washington Treaty? Did you ever hear of the Treaty of Washington at all?—A. No; I don't know I ever did.

Q. Did you ever hear of the Reciprocity Treaty?—A. I have heard of it.

Q. Did you ever hear of the Treaty of Washington?—A. It is what you spoke of, I suppose.

Q. Before I spoke of it, did you ever hear of the Treaty of Washing-

ton or know what it meant?—A. I suppose the treaty would be the Reciprocity Treaty.

Q. Do you suppose that would be the old Reciprocity Treaty you spoke of?—A. Yes.

Q. You heard many years ago of the Reciprocity Treaty?—A. I have heard of it.

Q. Do I understand you to say that is the treaty which you suppose is the Treaty of Washington?—A. Not at present.

Q. Do you say the Reciprocity Treaty and the Washington Treaty are the same, or are they different?—A. The Washington Treaty is what we are now under.

Q. Do you believe or understand that the Reciprocity Treaty was a different treaty from the Treaty of Washington, or the same treaty?—A. The Reciprocity Treaty I suppose to be different from our free trade.

Q. Do you understand that the Reciprocity Treaty was a separate treaty from the Washington Treaty?—A. Yes.

Q. Did you ever hear of the Washington Treaty until you entered this room?—A. I cannot say I knew the real rules of the Washington Treaty.

Q. Did you ever hear of the Washington Treaty itself until you came into this room—I don't ask you about the rules?—A. Yes; I have heard the treaty spoken of—the Treaty of Washington.

Q. Do you know what any of its provisions are?—A. No.

Q. Do you know as to whether your frozen fish from the island go into the United States free by the Treaty of Washington or under some other treaty?—A. By the Washington Treaty, I suppose.

Q. Do you ever do any cod-fishing around the island?—A. I have done some, which I have spoken of, on a small scale.

Q. Do you catch the cod close inshore or far off?—A. We catch them from in 15 to 35 fathoms of water. We catch them inshore at certain times from half a mile of the shore to 4 or 5 miles occasionally.

Q. Do you catch them from half a mile to 4 or 5 miles of the shore?—A. It depends on where we find the fish.

Q. Where do you find most of them?—A. That is uncertain; some days we find them on one ground and some days on another.

Q. They are all taken, you say, from half a mile to five miles of the shore?—A. I say those I fish.

Q. What do you say about the others?—A. Of course, vessels and large boats go further out, and vessels even go to Grand Manan Bank, which is nearly out of sight of Grand Manan.

Q. How far from the shore?—A. It is 25 miles to the southwst of Grand Manan. You can just see Grand Manan from it on a clear day. There is about as good fishing there as anywhere for our vessels this year.

Q. How do you know that?—A. People tell me so, and my own relations tell me so.

Q. Do I understand that the boat-fishing is conducted from a half to 4 or 5 miles off?—A. Yes; the principal boat-fishing.

Q. Can you state whether the greater part of the catch is obtained within 2 miles of the shore or 5 miles out?—A. It varies with different seasons. In summer the greater part is caught out. In early spring the fish come inshore. In the fall and cold weather the fish follow the weir herring and we catch them inshore again.

Q. Then the best fishing, taking all the year round, is inshore?—A. No doubt.

Q. That is for cod?—A. Yes.

Q. Are the herring which are taken in weirs and boats at the island taken very close inshore?—A. Not far out. There are places with 10 or 11 feet of water between islands, and the fish are all inside of some island.

Q. They are all inshore?—A. Inshore fish we call them.

Q. For what purpose do the Americans buy your frozen fish?—A. To peddle them; retail them out and dispose of them for consumption by the people. I understand they sell them in large quantities if they can, and if not in small quantities.

Q. Do you know if any Gloucester vessels come down for herring-bait with which to go cod-fishing on the Banks?—A. Yes. I have known them come there. Last May I saw two American vessels there, and one of our small vessels go out to them. I was told that Judson Richardson sold one 20 barrels of bait, and the other 25 barrels.

Q. Those vessels were going out to fish cod?—A. Yes. They went direct away. I saw the vessels.

Q. Do American vessels come down and fish along the shore for herring, to your knowledge?—A. They occasionally have nets; they would likely do so.

Q. Do they do so as a fact?—A. I do not go on board to know whether they fish for herring or not.

Q. Do you see them lying at anchor close to the island with nets?—A. Not with nets out.

Q. Do you mean to say you have never seen any American vessel for the last seven or eight, or three or four years, fishing for bait close by the island?—A. They set a net occasionally, but they generally buy their bait; they would rather buy it.

Q. Do they often come to buy bait?—A. Yes. There have been half a dozen during the summer.

Q. What is the average size of vessels which come in for bait?—A. Vessels ranging from 40 to 60 tons.

Q. Where do American vessels go to get the bait?—A. Wherever they can find it. They come to North Head, and if it is not to be had there, they come to Long Island.

Q. You know that the herring spawn at the island, and that it is a breeding-ground for them?—A. Yes.

Q. That is, North Head?—A. South Head is the spawning ground for herring.

Q. That is a great spawning-ground?—A. Yes.

Q. Did you ever know American vessels come there?—A. They come in the fall and buy herring, but I never knew them set a net.

Q. Do you know what is the close season for herring?—A. From 15th July to 25th September, I think.

Q. Is it not from 15th June to 15th October?—A. It is during three months, I think.

Q. During that time, you know, it is unlawful to take herring?—A. Yes; that is, during the close season.

Q. Do you know if Americans have come in and taken herring off this very ground?—A. I don't know it myself.

Q. Did you ever hear of it?—A. I can't say I did.

Q. Where did you hear that American fishermen came in during the close season and took herring?—A. I did not say I did.

Q. Where was it you got the idea?—A. I never heard that American fishermen came in and set their nets on the spawning ground during the close season. There were 19 sail of Bankers, Gloucester vessels, two years ago this fall, which came and anchored between two islands, off

Sea Cove. The people sold them herrings. I saw the vessels going out. But I was not told they set any nets, or anything of the kind.

Q. How did they get the herring?—A. They bought them from the people.

Q. How far do you live from South Head, the breeding-ground for herring?—A. Fifteen or sixteen miles.

Q. Can you see it from where you live?—A. No.

Q. Then you don't know what is going on there?—A. Vessels might come in and go out and I not see them. I saw the vessels I have mentioned in the fall getting herring; but I never heard that they went in and caught fish during the three months they are not allowed to take them.

Q. Does Mr. McLaughlin live near the breeding-ground?—A. Quite near.

Q. He would know, would he not?—A. He would know if the vessels were there.

Q. You stated that the people of the island were first, to your idea, to set trawls?—A. The first I heard of trawling-fishing.

Q. Will you state the names of those on the island who first set trawl-nets?—A. There are a great many of them. I can tell you the names of some; but a great many people have moved in there during the last five or six years whom I don't know.

Q. How long ago was it that you first heard of trawl-fishing?—A. The first time I heard of them setting trawls was three summers ago, I think. They might have been trawl-fishing before that. There have been three summers' trawl-fishing on our coast.

Q. That is the first time you ever heard of it?—A. Yes. It is three years ago that the people spoke of it.

Q. You never heard of the system of trawl-fishing before you heard that it was followed by some people in your island?—A. Yes.

Q. Where?—A. I have talked with Maine fishermen, and they told me they had used trawls, and they considered it hurt the fishing.

Q. Did they tell you that the trawl-fishing had destroyed their fisheries?—A. They considered it was a wasteful way and destroyed them.

Q. Did they tell you their fisheries were destroyed by trawl-fishing?—A. Five years ago I talked with Mr. Smith and Mr. Wickerton about trawl-fishing.

Q. That was the first time you ever heard of trawl-fishing?—A. Yes; the first time I ever had any conversation about it.

Q. And two years after that you heard of your people setting trawls?—A. Three summers ago the people of North Head commenced.

Q. Do the Americans trawl very much in the waters round the island?—A. Probably when the fish are there; the fish have not been there so much.

Q. Have the Americans been trawling there during the last four or five years?—A. The people say they have had trawls out.

Q. And you believe that mode is destructive to fishing?—A. That is what the people who use trawls tell me. I never use trawls.

Q. The reason is because you do not think it a proper mode of fishing?—A. I don't think it is a proper way to fish.

Q. And yet the Americans come in year after year and use trawls. Have you seen them use trawls this year?—A. I have not been out fishing.

Q. Have you heard of it?—A. They have not come in. Last fall the American fishermen were close inshore when the fish were there, and of course they used trawls the same as our men did.

Q. Did the Americans, when they told you trawling had destroyed the fishing on their coast, tell you the reason why it had destroyed the fishing?—A. They may not have named every circumstance. They thought they destroyed the fish; but they always told me this—that they threw gurry into the water. Most of the people say the trawls will catch the fish lying still at the bottom, old and spawning fish which will not take a line having the motion of the hand.

Q. All the mother fish which would keep at the bottom, if properly fished by hand, are caught by trawls?—A. I would not say all. That is what they say. I will tell you an instance which was told me at home a week before I left. It came through two mouths. The man told it to my son and he told it to me. The man said they fished in 19 fathoms of water and caught some of the biggest fish they ever caught, and he told the story that three of them would fill a tub. Some of them had the spawn ripe enough to come out. Probably you will say it is an American fish story; I suppose it is.

Q. Do Americans stop at your house during the season?—A. Fishermen come ashore and get their water-barrels filled, and sometimes a bushel of cherries.

Q. Did you ever hear from anybody that trawling was the proper mode of fishing?—A. I don't think I did—that it was the proper mode of fishing.

Q. They all said trawls were bad for the fishery?—A. I talked to a man this summer about it, and he thought it was injurious to fishing and did away with the fish, and he was willing to give it up, if they would all do so. I don't remember his name; he was a stranger to me.

Q. On the American coast, opposite Grand Manan, there is a large colony of fishing people, I believe?—A. Yes; there are a good many fishermen there.

Q. Are you aware that they send boats over to fish in Grand Manan waters?—A. They come there. I see them there frequently.

Q. About how many American boats frequent the shores of Grand Manan and fish there?—A. I don't know. Only about four last summer came down my way. I saw but four and one big vessel.

Q. Five in your neighborhood last summer?—A. Yes.

Q. How many were round other parts of the island?—A. I did not visit North Head to know what stopped there.

Q. It is notorious that American fishermen come from the mainland and fish round the island?—A. They frequently come and stop a while and go away again.

Q. Of course, after they have got their catch they do not stop any longer?—A. If they come to fish and do not find them they go back; but if they find fish they stop and fish a week and go back.

Q. Are you aware that they all fish at Campobello, the Western Isles, and Deer Island?—A. No doubt all the Passamaquoddy people fish round Passamaquoddy River. I saw a number of them the other day out in boats.

Q. All the fish taken in these places are taken in British waters?—A. I could not say all; the principal part of them is. Those boats I saw the other day down at Cherry Island. But I also saw some the other day down at Eastport.

Q. Don't you know there is no fishing at Eastport?—A. Not to speak of. There are no fish on the anchoring ground.

Q. Nor any close by Lubeck?—A. I have seen fish taken off Lubeck, and also east off Fires Head and what is now called Treat's Island; but they were small codfish and haddock.

Q. How far is that from Campobello?—A. About half a mile west of it.

Q. Campobello is an English island?—A. Yes.

Q. Then you speak of fish caught within half a mile of Campobello?—A. Yes; I know that a few fish were taken there, small cod and had-dock; but the fishing-grounds are close to Cherry Island and off that way.

Q. Do you know anything about the fishing round Metite?—A. No; I never fished there. I never threw a line in Passamaquoddy River.

Q. Have you heard there is good fishing there?—A. Yes; I have seen plenty of boats there.

Q. It is close by Cherry Island?—A. Yes. When there is a slack tide they can go farther into the river.

Q. Do you know anything about the boat-fishing in Black Bay?—A. I never fished there.

Q. Have you heard there is good fishing there?—A. I have heard they sometimes catch pollock there. I don't think that pollock run there as they used to do, because the people of Black Bay are mostly at our place.

Q. When you say that if you were shut out from the American market you could not get a market in the Dominion, as the matter now stands, you are talking about something you don't know?—A. That may be so.

Q. Is it not so?—A. When our people send fish by our men to St. John, they come back with less money than if they had sent the fish to Eastport; it does not pay as well.

Q. How long ago was that?—A. My sons and my neighbors put up perhaps 6,000, 7,000, or 8,000 boxes of herring, and I only put up 2,000 boxes last fall.

Q. Do you speak only of smoked herring?—A. They want to dispose of their herring to the best advantage. They send them to New York, Boston, Eastport, and St. John, and when they have sold any at St. John they say it would have paid better to have sold them at Eastport. That is the general talk.

Q. How long ago was that?—A. It is every year. The last time was about four weeks ago.

Q. Then in spite of this loss at St. John, they still send smoked herring there, though the American market is open and free?—A. Yes. They have not carried many there since the fire.

Q. Did they make money before the fire by selling smoked herring at St. John?—A. They did not consider they did as well.

Q. Why did they send to St. John when the American market was open to them, if they could do better there?—A. The prices vary. Probably if you go to Eastport and carry in a great many herring, the dealers, finding there are plenty coming in, would not offer a large price; and so a vessel would run over to St. John.

Q. When the fishermen could not get the prices they wanted at Eastport, they would go to St. John and do better?—A. They would probably not do better, but they would go and try.

Q. They could not sell at Eastport?—A. The people there have a rule that when they find plenty of fish coming in, they don't care to pay what they would if the fish were scarce.

Q. Then they do better, if instead of selling at Eastport, they go to St. John?—A. They come back and say they have not done so well as if they had sold at Eastport.

Q. Sometimes they do better?—A. Sometimes. They trade in cod sometimes for fish.

Q. Do you know anything about pickled fish?—A. No.

Q. Do you know anything about the markets for fresh fish?—A. I don't make inquiries in regard to that matter.

By Mr. Foster:

Q. How deep is 15 fathoms?—A. There are 6 feet to a fathom.

Q. Some inquiries were put to you about taking herring in the close season; who does the most of that?—A. Probably I would get blamed for saying anything about that, because I was not there to see. It is not a thing a man can speak about. I might get blamed if I was to say that three-fourths of the herring netted in those three months were taken by our own people. I would not say it was so.

Q. If Americans come in vessels and large boats, then your people, I suppose, sell them herring?—A. Yes.

Q. How long do you understand cured fish has been going into the States free of duty?—A. Five or six years.

Q. Did the people pay any duty on it before that?—A. They had been paying a duty.

Q. About how many years before had there been a duty?—A. I never gave my mind to think what year it was; I never booked it, and for that reason my memory fails me.

Q. Was there any period when cured fish went in free of duty before this last time?—A. I think there was.

Q. Do you remember what was called the Reciprocity Treaty?—A. Yes.

No. 4.

WEDNESDAY, September 19, 1877.

The Conference met.

DAVID INGERSOLL, of Gloucester, Mass., mariner and fisherman, called on behalf of the Government of the United States, sworn and examined.

By Mr. Foster:

Question. You live in Gloucester, Mass.?—Answer. Yes.

Q. What is your age?—A. Fifty-five.

Q. You have been a fisherman all your life, I believe?—A. Yes; ever since I was nine years old.

Q. At what age and in what year did you first go fishing in the Gulf of St. Lawrence?—A. I was thirteen years old the first time ever I came.

Q. That was in what year?—A. I am now fifty-five years old.

Q. Well, you were in the gulf-fishing as a boy for the first years?—A. Yes, sir; I was three or four years in the bay right off at that time.

Q. What was the first year you came here as the skipper of a schooner?—A. The first year was 1847.

Q. You fished for mackerel altogether?—A. Yes.

Q. During the early years you were here, before you got to be skipper, where were you in the habit of fishing for mackerel?—A. Mostly at Bradley and Orphan at those times, abroad off Gaspe and about there.

Q. Begin now with 1847, when you were first here as skipper, what was the name of the schooner and what the tonnage?—A. The schooner Mary Eliza. She was, I think, 54 tons.

Q. That would be, in 1847, old tonnage?—A. Yes, that was before the new tonnage.

Q. How many mackerel did you catch that year and where were they caught?—A. That year we got 180 barrels, I think. We caught them at the Magdalens.

Q. All of them?—A. Yes; all of them at the Magdalens that year.

Q. Come to 1848; what vessel were you in then?—A. The schooner Cape Ann.

Q. How many mackerel did you take and where?—A. We got, I think, 220 barrels.

Q. In the year 1847 you took how many barrels, did you say?—A. 180.

Q. Was that your full catch?—A. Well, we were fitted out for about 200.

Q. Then in 1848 you were in the Cape Ann?—A. Yes.

Q. How many barrels did you take?—A. 220, I think.

Q. Was that a full fare?—A. No, we were fitted out for 300.

Q. Where did you take them?—A. We caught them at Magdalens and Bradley and around in that direction; mostly at the Magdalens.

Q. Did you take any of the first two years' catches within three miles, except at the Magdalens?—A. No; not those years.

Q. Now in 1849 and 1850, were you in the Gulf of St. Lawrence?—A. No. I was not there.

Q. Where were you then?—A. I was away to sea.

Q. In 1851, were you in the gulf?—A. I was in the schooner Dolphin.

Q. As skipper?—A. Yes, sir.

Q. Well, how many barrels of mackerel did you get?—A. I think it was 180.

Q. And was that a full fare?—A. No, sir. We fitted for, I think it was, 280.

Q. Where did you take those 180?—A. We caught them, as near as I can recollect, most of them off what we call Pigeon Hill.

Q. How many miles from land?—A. Well, I should say we were twelve or fifteen miles off, and sometimes more than that. Sometimes we would just see the land, and then again we would see quite plainly.

Q. Was any portion of that year's catch taken within three miles? Was any portion taken within three miles of shore in 1851?—A. I don't think there was. I don't recollect. I didn't get over five barrels within the three-mile limit, I don't think. Five miles we might, because we used sometimes to stand inshore and heave to and see if there was anything. Another thing, that year the Canadian cutters where we fished were running backward and forward across the Bay Chaleurs, and where we fished she took no notice of us where we were fishing, and therefore we must have been over three miles off.

Q. Point out where Pigeon Hill is?—A. (Witness points on the map to Pigeon Hill, near Shippegan, about the mouth of Bay Chaleurs.) There is high land there, and it is what we call Pigeon Hill.

Q. Now, from 1851 to 1865, what were you doing?—A. Well, sir, I don't know as I can tell you. I was all over the world.

Q. You were not in command of any fishing-vessel?—A. No. For about fourteen years there most of the time I went to sea. I used to go away in the winter, and didn't get home in time in the summer to take a vessel. I was all over the world almost.

Q. In 1865, where were you then?—A. In 1865 I was in the schooner Martha A. Porter.

Q. In the gulf?—A. Yes; in command of her.

Q. Now, how many barrels of mackerel did you get, where did you fish for them, and where did you get them?—A. I took 180 barrels, or 170 I think it was. We got them at the Magdalens.

Q. All of them?—A. Yes, all of them.

Q. In 1866 what were you doing, the next year after the first you were in the Martha Porter?—A. I think I was not in the bay—I think to the Georges.

Q. Cod-fishing?—A. Yes.

Q. In 1867, what were you doing?—A. I was in the bay, I think.

Q. In what vessel?—A. The Martha Porter.

Q. Where did you fish and how many did you take?—A. In 1867 I think it was 120 barrels, if I recollect aright.

Q. Where were they taken?—A. Well, we caught some at the Magdalens, and some at East Point, and some half way across from East Point to the Magdalens.

Q. What proportion of those, if any, were taken within three miles of the shore?—A. I don't know that we caught any within three miles of the shore. We might; we might possibly have got a barrel or two, but we didn't fish within three miles, because we could get no fish within three miles of the shore.

Q. Take the following year, 1868, what vessel were you in then?—A. I was in the Phoenix.

Q. How large was she?—A. One hundred and one tons, new measurement.

Q. How many mackerel did you take and where?—A. We took 180 barrels; I think it was 180 barrels.

Q. Whereabouts were they caught?—A. Well, they were caught at the Magdalens, for I fished there all the time. No; I am mistaken. That 180 barrels were caught off Gaspé, Bonaventure—off Bonaventure, you might call it.

Q. What portion of those, if any, the first year in the Phoenix, did you take within three miles?—A. We didn't get any. When we came we ran right to the Magdalens, and didn't find any mackerel, and we ran right across there and went into the Bay Chaleurs and tried, and didn't find anything, and went outside. The first time we got outside we struck mackerel, and I believe it was about three weeks we staid there and got 180 barrels. That is all we were fitted for. We calculated to go to the Georges, and didn't fish any more.

Q. In 1869 what were you doing?—A. I was to the Georges.

Q. In the same vessel?—A. Yes.

Q. Still as captain?—A. Yes.

Q. Cod-fishing, I suppose?—A. Yes.

Q. In 1870 what were you doing?—A. I was in the bay.

Q. In what vessel?—A. In the Phoenix.

Q. How many barrels did you take and where did you take them?—A. I think there was 170—I think 120. I won't be sure whether 120 or 170 barrels were taken. I caught them at the Magdalens.

Q. In 1871 what were you doing, and 1872?—A. In 1871 and 1872 I was in the Joe Hooker, to the Georges both years—not in the gulf.

Q. In 1873 where were you?—A. I was in the Carlton.

Q. Where did you go?—A. To the bay.

Q. How many trips?—A. We went two trips that year.

Q. How many barrels did you get the first trip and where did you get them?—A. The first trip we got 300 barrels. We had 710 sea barrels and packed 300.

Q. Where were they taken?—A. We caught them all at Magdalens—some of them at Bird Rocks.

Q. What did you do with those?—A. We carried them home.

Q. You didn't transship?—A. No.

Q. You made a second trip?—A. Yes.

Q. How many did you get then?—A. I got—think it was 270 the next trip, or thereabouts.

Q. Where did you catch those 270 barrels on the second trip?—A. We got 100 barrels from the Magdalens, and then it got late and we ran down to Sydney. We got from 150 to 170 barrels down at Sydney, between Sydney and Cape North.

Q. What portion of those 170 barrels taken between Sydney and Cape North were taken within three miles of the shore?—A. Well, I should say that one-eighth part of what we got was taken within three miles of the land.

Q. You mean— A. I mean one-eighth part of the 170.

Q. In 1874, what were you in?—A. In the Phoenix, the same vessel.

Q. Where did you fish and how much did you catch?—A. Well, we fished—I could not tell you—we fished about all over the bay.

Q. How many did you get in your first trip?—A. We got 150 barrels, I think it was.

Q. This was your second year in the Carlton?—A. Yes.

Q. You say you got 150 barrels the first trip?—A. I think it was from 150 to 170 barrels, somewhere along there. We got them, and went to Canso and landed 100 barrels, and bought 100 empty barrels in Canso, and refitted and went into the bay again, where we got another 100 barrels, and then we went into Canso and took them all aboard and went home.

Q. Now, of the first 150, where were those caught?—A. The first 150 we caught at the Magdalens, most of them. We caught some few off East Point. We got one little spurt of mackerel off what we call Georgetown Bank, 15 or 20 barrels.

Q. Show where Georgetown Bank is. Is that the same one called Fisherman's Bank?—A. I think so. (Points to the map, southeast of Georgetown, P. E. Island.)

Q. Those you caught at Georgetown Bank—how far from shore is that bank?—A. Well, we reckon it twelve or fifteen miles off.

Q. From where?—A. Why, from any land.

Q. What is the nearest land?—A. Georgetown.

Q. Now, of your second trip in 1874, which was 100 barrels, what proportion were taken at the Magdalens and what proportion were taken in the vicinity of Georgetown Bank?—A. Well, of the second trip of 100 barrels we caught some off Georgetown Bank, some off East Point, some at Margaree, and some we caught at Magdalens. We only got 100 barrels, anyway; we could not get many in any one place.

Q. Can you estimate what proportion, if any, of this last trip were taken within three miles?—A. I should say, to be candid about it, as near as I could judge, about one-eighth part inshore—that is, within three miles of land.

Q. Then we come to 1875, the next year, where were you then?—A. In 1875, I was in the B. D. Haskins.

Q. What vessel were you in in 1875?—A. I was in the same vessel, the Carlton.

Q. Where were you then, and how many barrels did you get?—A. We fished all over the bay, and got 120 barrels, I believe.

Q. When you say all over the bay, what do you mean?—A. East

Point, the Magdalens, Margaree, up on the West shore, and we fished anywhere we could get mackerel.

Q. How long were you taking 120 barrels?—A. We came from home the 5th day of July, and got home, I think it was—I would not say—after the 20th of October.

Q. That, I suppose, must have been a losing voyage?—A. Well, we didn't make much on that.

Q. What did you make yourself as captain—about what?—A. Well, sir, I made, I think it was, \$110, my percentage and all.

Q. Did the vessel make anything?—A. No; the vessel could not make anything.

Q. In 1876, last year, what were you in?—A. I was in the B. D. Haskins.

Q. How many barrels did you get?—A. 120 barrels.

Q. Where did you get them?—A. We got them at the Magdalens, all but 20 barrels.

Q. Where were those caught?—A. The 20 barrels we got abroad off East Point. There is a shoal off East Point, between there and Port Hood. There is a shoal about south or south-southeast from East Point. When it is rough it breaks there. We caught most of them about there, about 20 barrels.

Q. How far from land is that?—A. We reckon it seven miles off, six or seven miles; but I don't know whether it is laid down so on the chart or not.

Q. Now, you have fished, by your account, a good many successive seasons at Magdalen Islands; can you tell the Commission whether it is a dangerous or a safe place to fish, and give your reasons?—A. Well, sir, as far as I know, I always fished there because I thought it was a safer place to fish. We had a better chance to make lee, we could do it so quick. It was just like running around this table. If we were anchored one place we could hoist our jib and go around to another; so we could go round and round as we required. We always thought it was a safer place to fish. Another thing, we always caught a great deal better mackerel. They were always larger and better than they were over at the island. When I have been catching mackerel at the island, it was none but a parcel of poor trash any way.

Q. You have always brought all your bait from home?—A. Always brought it from home or else sent home; telegraphed and had it come down.

Q. What has it been?—A. Pogies and clams.

Q. How many times have you telegraphed to have it brought down?—A. Year before last, 1873, we telegraphed for 20 barrels of bait and they sent it down.

Q. Eighteen hundred and seventy-three is not year before last?—A. I say in 1873 we had it sent down.

Q. Have you ever had it sent down any other year?—A. No.

Q. Have you ever bought any?—A. No.

Q. Then it has all been brought with you except that year when you had 20 barrels sent?—A. Yes.

Q. Have you fished in company with other American vessels usually?—

A. Yes; I always fished where most of the vessels fished. Sometimes there would be, where we were fishing, 150 sail. Then again not more than 50. Then again 250. We used to count them sometimes; when we saw a big fleet we would come and see how many there were. Sometimes we would count them. I have seen, in 1873, as high as 250 sail at a time.

Q. Where?—A. At Magdalens. I believe that was the most I saw at a time. I think there was about 300 sail in the bay, as near as I can judge; sometimes 250 to 200 odd sail at the Magdalens. Then again there would be a few days there would be no mackerel, and they would run round some to East Point, some to North Cape, some to Cape Breton, and so on. If they didn't find anything they would come back again.

Q. You have made inquiries, more or less, and have a general knowledge of the places where the Gloucester fleet has fished for mackerel in the bay?—A. The Gloucester vessels mostly fish at the Magdalens.

Q. Are you able to make an estimate of the proportion of the mackerel caught in the Gulf of Saint Lawrence by the whole of the American mackerel fleet which is caught within three miles of the shore?—A. Well, I could make an estimate of what I have done myself. I could make an estimate of what the Gloucester vessels have done, because I have fished with them, and they generally fished mostly where I have fished. I should say the Gloucester vessels, since I have been skipper of a vessel, haven't caught over one-eighth inshore.

Q. By "inshore" what do you mean?—A. Within three miles. Because they mostly fished at the Magdalens. We have caught them at the Magdalens within three miles of the land, but most of the mackerel we got there is seven or eight miles off.

Q. Now, about fishing among the boats that come out from the shore, have you been in the habit of fishing among them?—A. I have shot up among the boats and tried to get mackerel—yes.

Q. How often?—A. Well, I never did very often, until the last year I went, 1876. Then the mackerel were scarce in the bay. We could not find any at Magdalens or to the northward; we could not find them anywhere for the matter of that. We ran over toward the land and spoke to the boats. They would tell us that the day before they had got plenty of mackerel, but that day they were doing nothing. We would then anchor and try.

Q. How far off shore have you seen the boats fishing at the farthest?—A. I have seen them on the north side all the way from three to ten miles off (that is, Prince Edward Island). On the south side, pretty near in generally.

Q. Have you ever had dealings with them in the way of buying or selling fish or bait?—A. I never bought any fish or sold any bait. I have had them come aboard and have given them bait; and I have had them grind their bait in our mills. They had no mills and they would have herring, and would want to know if they could grind it. I was, of course, perfectly willing. When we had plenty of bait we would give it to them. We have done that often.

Q. Now explain the manner in which your vessels catch their mackerel, and whether there is any difference according to your observation in the mode of catching by boats and by vessels.—A. The difference is just this, they can catch them in the boats when we can't begin to catch them in the vessels.

Q. Why?—A. The boats go off and there will be a shoal spot say two or three miles off from the land, or whatever it might be. There are a number of places where there are shoal spots where our vessels can't get. If we were to anchor there, why the keel would be on bottom. We could not anchor, especially with the wind on shore. Sometimes when the wind was off shore we could anchor or heave to and drift. But as a general thing those boats, there would be places where they would go in where we could not, and get mackerel. When we would

heave to, it would not be so as to trouble them, unless we would drift down and foul them, which I never did and never saw done. Then again, with a crew of eighteen or twenty men it would be a small business to drift up among the boats to fish with them. We would want more room.

Q. Do you catch from bottom or from the surface?—A. We tole them up to the surface; but those boats fish with long lines, and they fish right on bottom as a general thing. We get them up where we can see them.

Q. About what length of line do you fish with?—A. We don't have three fathoms. It just goes under water. Those boats fish with the whole length. When they begin to fish with the whole length those mackerel we can't get them, because they would not rise up. That is what we call rock mackerel.

Q. Your vessel-fishing depends upon raising the school to the surface by bait?—A. We won't cut up bait where we can't see them, and where we can't catch them; or, if we are drifting, we want to be where we can drift two, three, or four hours and catch. The idea of jigging around among two or three boats—if that was the way it was to be done I would not like to go mackerel fishing. It would be a small business.

Q. You have spoken of the number of vessels fishing. I want to know whether the number has continued as great as it was in former years, or whether it has been diminishing; that is, the number of American mackerellers that you have seen?—A. They have been falling off every year from coming into the bay. I don't think myself I will ever go again.

Q. Do you know how many there were from Gloucester in the bay last year?—A. I think about twenty sail; there might be thirty; I don't think over thirty. I didn't see over twenty at a time.

Q. Taking all the American vessels going to the bay the last year for mackerel, how many would you estimate them to be?—A. There were hardly any fishermen except Cape Ann men.

Q. Well, that means Gloucester and its immediate vicinity?—A. Yes. I believe there was two or three Boston vessels; I don't know, perhaps one or two Newburyport vessels. From the south I don't think there were more than half a dozen. I don't recollect seeing any from the south shore. I think there were about thirty sail in all of mackerel fishers in the bay last year, although there might have been forty. I should not say over thirty.

Q. Have you fished for halibut from off Cape Sable Island?—A. I never did off Cape Sable Island; yes, I did one year, but off Seal Island and Cape Sable; you might call it all Cape Sable.

Q. In what year was that?—A. Those years that I was speaking to you about that I was all over the world, and was not skipper. Three of those years I was trawling for halibut in the Samuel Wenson, with a man by the name of James Chambers.

Q. Do you happen to remember which of those years you were at those places?—A. There were three of those years I have spoken of.

Q. Which three?—A. I could not give the dates.

Q. One of those you say you fished for halibut off Seal Island?—A. I went three years to Seal Island. I went to Seal Island altogether, and to La Have Bank.

Q. Where is La Have Bank?—A. It is a good ways off; about forty miles off.

Q. Now, what I want to know is, what distance from the shore you fished for halibut near Seal Island?—A. We used to run until we saw Seal Island Light. When we first came out from home we would make

our first set for that. We would run until we saw that light, which we reckoned to be twelve or fourteen miles off. If it was in the day-time we would run until we saw the tower. That you can see about as far as the light. We would anchor in about thirty fathoms of water. There we would set trawls once, and that is about all you could get—what you would get once. Then from that we would shift off all the way to sixty or eighty fathoms.

Q. What is the shallowest water that trawling for halibut is practiced in?—A. Well, at those times we used to think we got most of them in about sixty fathoms—from sixty to ninety fathoms; but now they get most in 350 fathoms—from 320 to 350.

Q. Have you ever known trawling for halibut to be pursued in water twenty or twenty-five fathoms depth?—A. I have caught halibut on George's in ten fathoms.

Q. With trawl or line?—A. With line, accidentally drifting over the bottom when it was calm; nothing of any amount. And I have caught halibut on Seal Island grounds by laying to and drifting where the tide was carrying us. We daren't anchor too near the island, because we could not set trawls; the bottom was rough, and the cable would cut off.

Q. What is the nearest to Seal Island?—A. I suppose we have caught halibut within seven or eight miles.

Q. Is there any chance of pursuing halibut fishing within three miles?—A. I could not say. I never saw any one.

Q. Why not? What is the objection?—A. The objection is that you could not set a trawl there because the bottom was rough. If they got the trawl stretched they could not get it again, for every hook would catch. If you anchor, you are sure to lose your anchor.

By Mr. Dana:

Q. Do you use hemp cables?—A. Yes.

By Mr. Thomson:

Q. Do you know Cape Sable Island, off the coast of Shelburne?—A. Yes, sir; I am well acquainted all around there.

Q. You have fished there, I suppose?—A. Never but one fall. One year I went down cod-fishing, what we call off Shelburne.

Q. You do know the island that is called Cape Sable Island?—A. O, yes.

Q. Did you ever fish up close to shore there?—A. Never.

Q. How far off that shore did you ever fish?—A. I never fished there much. I have told you that one fall I fished off Shelburne. We used to calculate to fish fifteen to twenty miles off, large black fish. We used to get 20,000 weight of them.

Q. Then in point of fact you never did fish close inshore at Cape Sable Island?—A. No. I never was to anchor inshore.

Q. And whether halibut were caught there or not you don't know?—A. I don't think any halibut.

Q. You don't know of your own knowledge whether they are or not?—A. No.

Q. Now 1874 was the time you first became a skipper of a vessel and went into the gulf?—A. Yes, sir.

Q. Had you been fishing there in former years?—A. Well, I was there, yes, backwards and forwards. I used to go most every year or two. I have been there more or less ever since I was a boy.

Q. How often have you been in the bay before you went in 1847?—A. Before I went as skipper?

Q. Yes.—A. I could not tell you how often, but I have been there a number of times.

Q. Were you in there as one of a crew?—A. I went in as a hand; yes, sir.

Q. How were you paid? Did you go on shares or by the month?—A. I went on shares.

Q. Now, do you mean that you were in there every year or nearly every year from the time you were thirteen to the year 1847?—A. No; not every year. There were about thirteen years I was all over the world. Sometimes I would be home for a year or two.

Q. When was that?—A. I could not give the date.

Q. Was it after you were a skipper in 1847 or before it?—A. It was after I was a skipper that I went away.

Q. Now, how often were you in the bay before the year 1847?—A. I could not state how often I was there. I venture to say I was there two-thirds of the years from the time I began going until I was skipper.

Q. You began to go when you were thirteen, and went almost every year?—A. No; not almost every year.

Q. Did you say two-thirds of the years?—A. I didn't say just two thirds; I might have been there two-thirds of the years.

Q. You ought to know.—A. I don't know because I didn't keep any record.

Q. Is your memory bad?—A. No; but it will not allow me to recollect from the time I was thirteen to fifty-five.

Q. You do recollect that you were thirteen years old when you commenced?—A. Yes.

Q. And you recollect when you began as skipper?—A. I was nine years old when I began to go fishing.

Q. Did you go into the bay then?—A. No; I was thirteen years old when I went into the bay.

Q. You went as a hand, and got your share?—A. Yes.

Q. Was it a profitable business?—A. Well, I don't know how profitable it was then.

Q. Did it pay you well?—A. I don't know; I was at work for my father, and he took my earnings.

Q. Did he tell you it was a good business?—A. No; he didn't want me to go, but I wanted to go, and I suppose I will have to keep going now. He only gave me my victuals and clothes. When I was nineteen was the first time I went for myself.

Q. You never took the trouble to inquire how much he made off your fishing?—A. I know one year he settled for me, and I earned him \$300 by fishing. I recollect that because it was a big sum then.

Q. That was fishing in the gulf?—A. No; I was in the gulf that year, but I began to go to the Georges in February, and went there until July—after the 4th of July.

Q. Then you mean that the bulk was made at the Georges?—A. I mean that some was made at the Georges and some in the gulf.

Q. Where was the greatest portion made?—A. The biggest portion on the Georges, because we were a longer time about it.

Q. How much did you make there?—A. About two thirds of the whole.

Q. What year was that?—A. I don't know.

Q. Was that when you were nineteen years old?—A. Yes.

Q. You settled for yourself?—A. No. I said I settled for myself when I was nineteen.

Q. Was this that year when you were nineteen?—A. No; it was some time before that.

Q. You say you made \$300 that year for your father. I thought you said you did not know what you made until you settled for yourself?—A. No. I said I did not know except this one year, because I made a big year's work.

Q. Did he tell you you had made a big year's work?—A. He might have told me, or the crew might have said. I know they made \$300 a share.

Q. How did you, as a matter of fact, get the information?—A. I cannot tell you; I don't know.

Q. Well, as to the other years, you cannot tell whether you made money or lost?—A. Of course I made money. I had nothing to lose, and could not lose anything.

Q. Your father did not lose?—A. He had nothing to lose. He had nothing to lose, and I have not either.

Q. Did the vessels make money on those trips?—A. I don't know what they made.

Q. You never asked?—A. They have always told me when I have been skipper that they never made anything. Whether it is so or not I don't know.

Q. The owners tell you that, and I suppose you contradict them?—A. I don't contradict them. I don't know and don't care, so long as I get my money.

Q. You believe them when they tell you they don't make any money?—A. Well, I know just about what mackerel are got, and I can tell a little about it myself.

Q. Do you believe them or do you not?—A. Sometimes I do and sometimes I do not.

Q. Which is the rule; how often do you believe them?—A. I can't tell you how often. It is according to how much money I have stopped. If I have stopped \$9,000, and they tell me that they have not made anything, I believe they lie; if I have stopped \$3,000 or \$4,000, and they tell me they are not making anything, I believe they tell the truth.

Q. How often do they lie and how often do they tell the truth?—A. I can't tell how often.

Q. What is a fair charter per month for a vessel of 70 tons?—A. I don't know.

Q. You have been in the fishing business ever since you were thirteen and don't know?—A. I don't know anything about chartering. I never chartered one. It used to be a good many years ago from \$1.80 to \$2 a ton. I don't know what it is now.

Q. For how long is that?—A. That would be for the whole season, as long as they chartered for, whether four or five months, so much per month.

Q. Was that an ordinary figure?—A. I don't know what it is now. I suppose a good deal more.

Q. Why more?—A. I don't know why; because everything is more, I suppose.

Q. Is it because fish are more plenty, or what is the reason?—A. Because there are not so many, I should say.

Q. But would men hire a vessel at a very large price to catch a few fish?—A. They don't hire, because they don't charter vessels now.

Q. Do you mean that the owners run them on their own account?—A. They do run them on their own account.

Q. They refuse to charter?—A. They have more vessels than they know what to do with. The owners don't want to charter.

Q. I understand that the owners don't want to charter for themselves. Don't they want to charter to outsiders?—A. No; because they have vessels enough that they own.

Q. Don't the owners of vessels wish to charter their vessels to outsiders?—A. They won't charter to outsiders.

Q. Why?—A. Because that is not their business. If you charter a vessel you have to charter her where she was built, a new vessel.

Mr. Dana suggests that the witness attaches a different meaning to the word "charter" from that intended by counsel.

By Mr. Thomson:

Q. What do you mean by chartering a vessel?—A. I mean, if you have a vessel and I come and charter her of you and pay you so much a month.

Q. Then I don't think you and I disagree. You mean that the owners do not desire any person to charter a vessel from them?—A. That is what I mean.

Q. Why?—A. I mean those fish-owners that own vessels.

Q. They don't desire that any person should come and charter vessels from them?—A. No.

Q. Why?—A. I don't know.

Q. Is it because it is more profitable to them to run them themselves?—A. I suppose they would rather run them themselves than run the risk.

Q. It is a more paying business for them to run their own vessels than to allow them to be chartered by outsiders?—A. Well, it is not their business to charter.

Q. Did you not tell me just now that they had more vessels than they knew what to do with?—A. I said they had enough without chartering them themselves.

Q. I understood from you that they had too many vessels; would they not desire to charter them to anybody?—A. Well, I should think some of them had too many.

Q. Well, say if they have.—A. I don't know whether they have too many. I say I should think so.

Q. Who do you think has?—A. I don't think anybody has.

Q. I thought you said they had?—A. I say, in my own mind, they have. Perhaps they think they have not enough.

Q. You told me just now you thought there were some that had too many vessels?—A. That is my own mind. Then I might go to the owner and tell him, and he would tell me to mind my own business.

Q. Tell me who you think has too many.—A. I don't think anybody has.

Q. Then why did you say so? Now, in 1847—that is the first year Mr. Foster examined you about—you went in the bay in the *Mary Eliza*?—A. Yes, sir.

Q. That year you got 180 barrels?—A. Yes.

Q. How do you recollect the number of barrels?—A. I can recollect from one minute to another, but I can't recollect eight, ten, fifteen, twenty, or thirty years ago.

Q. Well, are you sure you cannot recollect thirty years ago?—A. No. I suppose I might recollect some things, and some I could not.

Q. But, as a rule, you would not recollect anything that happened thirty years ago?—A. Perhaps some things I would, and some things not.

Q. Do you think it is likely you would, or not?—A. I think it is likely I should.

Q. Well, then, what made you say you could recollect from one minute to another, but not thirty years ago?—A. Because I could recollect from one minute to another better than thirty years ago.

Q. I asked you how you recollected the number of barrels, and you said you could recollect from one minute to another, but could not recollect thirty years. What was the point of that?—A. You just asked me, and I said I could recollect it.

Q. Do you say you can or that you cannot recollect what happened thirty years ago?—A. I can recollect some things.

Q. But as a rule you cannot?—A. Other things I could not recollect.

Q. What things?—A. I can't tell you what things.

Q. Could you recollect the number of barrels you took thirty years ago?—Well, no, I could not. That is too long ago to recollect the number of barrels.

Q. Could you recollect the number you took twenty years ago?—A. Well, yes, I think I could.

Q. You might recollect the number twenty years ago, but the number thirty years ago is out of the question. You could not recollect that. Is that so?—A. I could not recollect. I can't recollect everything twenty or thirty years ago.

Q. Would you be able to recollect rightly the number of barrels you took in a vessel twenty years ago?—A. Yes; I should be likely to, of course.

Q. Could you twenty-five years ago?—A. I don't know.

Q. Thirty years ago, you say you could not?—A. I did not say that. I said I might, or I might not.

Q. Did you not tell me you could not?—A. I did not tell you so.

Q. Did not I ask you, among other things, whether you could recollect the number of barrels you took thirty years ago, and did not you say no, you could not?—A. I say there are some things I could recollect and some things I could not.

Q. You say now there are some things you could not recollect. Did not you tell me you could not recollect the number of barrels you took thirty years ago? If you are wrong, say so.—A. I say I cannot recollect.

Q. Now, you say you can't recollect what took place thirty years ago, and you have some doubts whether you can recollect what took place twenty years ago. Among other things, you have stated that you took 180 barrels in 1847, which happens to be thirty years ago, just the period as to which you swear now that you cannot recollect. You see, that is very curious.—A. Well, I told you there might be some things I could recollect and some I could not.

Q. You have outrun your memory ten years. In point of fact, this must have been 1857 you refer to, as your memory does not run back beyond twenty years. You still stick to the statement that in 1847, thirty years ago the very time as to which you say you cannot recollect, you got 180 barrels?—A. Yes. Well, there are a good many things, as I told you, that happened thirty years ago that I could not recollect.

Q. I asked you distinctly to tell me whether you could remember the number of barrels you took thirty years ago, and to correct yourself, if you were wrong, and you persisted in saying that you could not recollect how many barrels you took thirty years ago, although you would

swear as to what took place twenty years ago. You still stick to the statement that you got these 180 barrels?—A. Of course.

Q. When did you recollect it? Where did you get the figures from? Did you bear it in your memory all the time, or has your memory been refreshed?—A. I know what vessel I was in, and what mackerel I caught.

Q. You just remember it all along? Had you any idea that 1847 was thirty years ago?—A. I don't mind of noticing anything about it.

Q. You say you got them at Magdalen Islands, and your full fare would have been 220, if I understood you right. Is that so?—A. Yes; somewheres about that.

Q. What was the tonnage of the Mary Eliza?—A. Fifty-odd tons.

Q. Would not a fifty-ton vessel take a good deal more than 220 barrels? Would she not take nearer 400; would not she take 300, at any rate?—A. No, because there was not room enough.

Q. Two hundred and twenty, then, would be pretty nearly a full fare?—A. No; about 220 to 250.

Q. Now, you got these 180 barrels at Magdalen Islands?—A. Yes.

Q. And you fished nowhere else?—A. No.

Q. That is a curious thing. It is an expensive thing to run a vessel from Gloucester, is it not? You went straight to the Magdalen Islands?—A. Yes.

Q. Through the Gut of Canseau, of course?—A. Yes.

Q. You did not attempt to fish anywhere else, and came home with very little better than half a cargo?—A. Yes.

Q. You did not attempt to fish anywhere else?—A. There was no mackerel anywhere else.

Q. You did not try anywhere else?—A. I did not say we did not try anywhere else; we might have tried in running across to Magdalen Islands.

Q. I am not asking you whether you might have tried, but whether you did try.—A. We did try in running across to Magdalen Islands.

Q. Did you not say you ran straight to Magdalen Islands, and that you did not try because it would be no use?—A. I say now we ran straight to Magdalen Islands.

Q. Did you not say you did not try because it would be no use?—A. We did not fish anywhere else.

Q. You are positive you did not fish anywhere else?—A. We did not fish anywhere else than at Magdalen Islands. We might have hove to to see if there was any mackerel, and if we did not raise any we kept going along. We ran straight to Magdalen Islands, but we hove to morning and night.

Q. Did you try anywhere else?—A. We tried on running across; we tried when we hove to at night.

Q. Why did you say you did not try?—A. We did not catch mackerel anywhere else except at Magdalen Islands.

Q. If you say that throwing a line overboard when going across the bay is trying, what did you mean by saying you did not try because it would be no use?—A. We were scudding; we hove to night and morning, and we tried for fish.

Q. Is it true or not that you did try elsewhere than at the Magdalen Islands?—A. We caught our mackerel at the Magdalen Islands.

Q. My question is this: Did you try to catch fish anywhere else than at the Magdalen Islands, on that occasion?—A. We tried only when running across; we might have hove to once.

Q. You ran straight from Gloucester, through Canse, across to Mag-

Magdalen Islands, never trying to fish anywhere except at the Magdalen Islands, unless when you hove to once or twice crossing the bay?—A. That is what I have stated.

Q. Why did you not try down on the coast of Prince Edward Island, instead of running home with a partial cargo?—A. Because there were no mackerel there.

Q. You did not go to try?—A. We saw vessels which did try. We did not want to go there because vessels coming from there to the Magdalen Islands said there were no mackerel.

Q. Can you give the names of the vessels?—A. No; I cannot tell you the names.

Q. Tell me the name of any one of the vessels which gave you that information.—A. I cannot tell you.

Q. Where did the vessels come and give you that information?—A. They came to the Magdalen Islands.

Q. They told you there were no fish off Prince Edward Island?—A. Certainly. When we saw a vessel which came from Prince Edward Island we asked if there were any mackerel there, and they told us whether there were or not.

Q. Did all the vessels which you spoke with come from Prince Edward Island?—A. I don't mean all.

Q. Did all which gave you that information?—A. I cannot tell where they had been fishing, because I did not see them fishing.

Q. Did they tell you where they had been fishing?—A. I asked them if there were any mackerel at Prince Edward Island, and they said no.

Q. Did you not inquire if they had been fishing there?—A. Of course not, because I supposed they had been fishing there if they came from there.

Q. How did you know they had come from there?—A. Because they said they came from there.

Q. My question is: Did all the vessels which came there and gave you that information say they had come from Prince Edward Island?—A. They did not all come from Prince Edward Island.

Q. From where else did they come?—A. Some from Margaree, some from North Cape, the West Shore, and all round the bay. They don't all come to one place or stay in one place.

Q. And there were no mackerel at any of these places?—A. There might have been at times.

Q. Did they say so?—A. When they came to the Magdalen Islands they did not find any elsewhere, or they would not have come.

Q. Did you ask if there were any mackerel at Prince Edward Island?—A. I asked "Have you got any mackerel over there at the island?" and they answered "No." If I saw a vessel come from the north, I asked if there was any mackerel there, and they said no. If mackerel had been there I would have gone.

Q. Why did you not go to Gaspé and Bay Chaleurs and try, instead of going back without a full fare?—A. Did I say I did not go there and try? I said we caught our mackerel at Magdalen Islands.

Q. You stated you tried at no places, except, when going across the bay, you hove to, but you can alter the statement if you wish.—A. I am not going to alter the statement.

Q. What did you mean by putting to me the question, "Did I say I did not go into Bay Chaleurs?" Did you mean the Commission to understand that you had gone into Bay Chaleurs?—A. I was not in Bay Chaleurs that year.

Q. Then why did you say, "Did I say I did not go into Bay Chaleurs?"—A. I did not put it to you.

Q. I asked you why you did not try Bay Chaleurs, and you put the question, "Did I say I did not go into Bay Chaleurs?"—A. I did not understand you said Bay Chaleurs.

Q. I said Bay Chaleurs.—A. I never was in Bay Chaleurs except once.

Q. Why did you put the question to me?—A. I never was in Bay Chaleurs but once.

Q. Will you not answer that question?—A. I do not know what you mean. I cannot answer if I do not know what you mean.

Q. You did not go into Bay Chaleurs that year?—A. No.

Q. Why did you not?—A. Because I found mackerel enough without going there.

Q. You are sure about that?—A. Of course, I am sure about that.

Q. You think you won't deviate from that statement? I have asked you why you did not go into Bay Chaleurs when you only got 180 barrels at Magdalen Islands, which is not a full fare, and you have given to me the extraordinary answer that it was because you had mackerel enough where you were.—A. We got enough.

Q. How do you reconcile that with the fact that you did not get a full fare?—A. I don't know what you mean.

Q. I asked you why, instead of going home with 180 barrels, which, you say, was not a full fare, you did not go to Bay Chaleurs, and you gave as a reason that you got plenty of mackerel where you were?—A. Did I not tell you we spoke vessels which came from there, and they said there was no mackerel.

Q. So far from that, you gave as a reason for not trying there, that you had plenty of mackerel where you were?—A. If I did not, I am mistaken. I told you we spoke vessels coming from Prince Edward Island and nor'ard.

Q. Then some of the vessels came from Bay Chaleurs?—A. I told you they came from all over the bay.

Q. Did they come from Bay Chaleurs?—A. I don't say from Bay Chaleurs, but from the nor'ard. Vessels seldom go to Bay Chaleurs.

Q. As you were going to Magdalen Islands you would pass Prince Edward Island, after going through the Gut of Canso?—A. We ran about half-way from Prince Edward Island and Cape Breton.

Q. After you went through Canso, you ran right by Prince Edward Island?—A. Yes; by the island, but a good way off.

Q. As you were going by, why did you not try Prince Edward Island before you went to Magdalen Islands?—A. Because there are better fish at Magdalen Islands. I would not take the mackerel at Prince Edward Island, because they are poor, nasty trash you get. I never saw any good mackerel caught there in my life.

Q. Then, really, the reason why you did not try at Prince Edward Island was that you were well acquainted with the fish caught there, and they were poor trash?—A. I am well acquainted with the fish caught there. I have seen them and caught them.

Q. You are sure you would not catch Prince Edward Island mackerel at all?—A. I would not if I could get any anywhere else.

Q. They are poor, miserable trash?—A. They are generally poor trash you get there—small, poor mackerel.

Q. How often have you fished in Prince Edward Island waters within three miles of the shore?—A. I have not fished there much.

Q. Then you were talking about something you know nothing about.

Why do you slander the poor fish if you have not gone and made their acquaintance?—A. I guess the fish don't know what I am saying.

Q. Unless you were down and saw them why should you slander the fish?—A. As a general thing the mackerel caught off Prince Edward Island are hardly worth carrying home. Another thing is, that the boat fishermen which catch the mackerel there did not know what mackerel was before we went there.

Q. Was it because they did not know what mackerel was that a poor class of fish came in there?—A. They did not know what mackerel was when I first went into the bay, or whether they should take them by the head or tail.

Q. They were such a poor class of fish?—A. They did not know mackerel from cod when I first fished there.

Q. Did you stay sufficiently long to instruct them in the different methods of taking fish?—A. I did not; but our people have instructed them how to catch the fish and dress them.

Q. Consequently a better class of fish are {now on the shores?—A. There has been a poor class of fish there.

Q. What has the intelligence of the islanders to do with the character of the fish?—A. They did not know anything about fishing before we went there. That has nothing to do, of course, with the character of the fish.

Q. Has the character of the fish improved as the people have improved in knowledge?—A. They don't know whether they are catching poor or fat fish.

Q. Are no good mackerel taken at the island at all?—A. I don't say there never were any good mackerel taken there, but that as a general thing the mackerel are poor, miserable trash. That is the idea about it.

Q. Are the mackerel taken at Prince Edward Island as late as September and October poor trash also?—A. They are not so bad as in the summer time.

Q. Are they poor or good mackerel?—A. Not generally so poor, because they come from the north and strike there, and those which come from the north are better mackerel.

Q. Spring mackerel are poorer than fall mackerel?—A. I am talking about summer mackerel. One mackerel caught at Magdalen Islands is worth three of those caught at Prince Edward Island.

Q. You say that mackerel caught in September and October off the coast of Prince Edward Island are poor trash?—A. I say not always, not every year. Some years they are poor trash and some years they are not so.

Q. Is that not the case on all coasts?—A. No.

Q. Are Magdalen Island mackerel never poor trash?—A. Mackerel have been poor in the bay for the last five or six years—all over the bay.

Q. They are poor mackerel?—A. Poor to what they were a number of years ago.

Q. Do you mean poor in quality or few in number?—A. Poor in quality.

Q. I understand you that spring mackerel coming into Magdalen Islands are equal to October mackerel at Prince Edward Island?—A. No. I don't say any such thing.

Q. I asked you if spring mackerel were always poor, and I understood you to say that the mackerel at Magdalen Islands were not.—A. Spring mackerel are poor everywhere.

Q. Are not the fall mackerel at Prince Edward Island just as good as the fall mackerel at Magdalen Islands?—A. They are not.

Q. Do you know that of your own knowledge?—A. Yes.

Q. From having fished?—A. Yes. They are better and bigger mackerel at Magdalen Islands.

Q. Where did you fish in Prince Edward Island waters?—A. I fished all round the island.

Q. Close inshore?—A. No.

Q. You don't know anything about the inshore fishery?—A. I never saw any mackerel inshore.

Q. Have you gone in and tried?—A. Yes.

Q. When did you try?—A. I tried the last year I was in the bay; I tried close inshore and everywhere.

Q. That was in 1876?—A. Yes.

Q. During any other year did you fish inshore at Prince Edward Island?—A. I would have taken them anywhere, because we could not get them.

Q. In 1876 you did go inshore and try?—A. Yes; we were inshore and tried.

Q. At what part of the island?—A. We tried on the south side and north side of the island.

Q. Tell me the places.—A. One place we tried was off Souris Head.

Q. That is near the north of the island?—A. It is at the south part of the island.

Q. How far from the shore?—A. Perhaps a couple of miles out.

Q. And you could not get any?—A. We never caught any.

Q. Did you try round the bight of the island?—A. We did not.

Q. Did you ever try there?—A. Yes.

Q. What year?—A. I cannot tell you what year; I tried a number of times. I never got any to speak of.

Q. Did you see boats fishing there?—A. Yes.

Q. Were they catching fish when you could not get any?—A. Sometimes they would be catching a few, and sometimes not.

Q. Off Souris Head last year, did you see many boats fishing?—A. Yes; we ran from East Point to Malpeque, and we saw boats all the way up and down the shore, from three to ten miles out.

Q. Were they catching any fish?—A. Some were catching a few and some were not catching any.

Q. As a rule, the fishing was a failure?—A. As a rule, they were not catching many. We hove to, but caught none, and we went on to Malpeque.

Q. Was that the time you were told there had been plenty there the day before?—A. They told me that one year. That was on the south side of the island.

Q. But when you went there you could not get any?—A. We could not get any.

Q. You did not hear that last year there were great numbers of mackerel round Prince Edward Island coast?—A. We did not hear it, nor see them anywhere.

Q. Did you get any out in the gulf beyond three miles from shore last year?—A. What we got were got at Magdalen Islands, all but 20 barrels.

Q. Where did you get those 20 barrels?—A. Off East Point.

Q. Close inshore?—A. No; they were taken on a shallow place, which we call 6 or 8 miles out.

Q. Within three miles of the shore did you get any last year?—A. Nothing to speak of; one or two barrels altogether.

Q. About how much of the whole catch did you get inshore last year?—A. I should say one-eighth part.

Q. Don't you think that is too high an average?—A. I think it is fully high enough.

Q. Did you catch your fish inshore at Magdalen Islands?—A. Some inshore and some out.

Q. How many inshore?—A. Perhaps one-third we caught inshore, within three miles.

Q. Of the 20 barrels what proportion did you catch inshore?—A. Of the 20 barrels we caught the whole of them at a shallow place, which we call 6 or 8 miles out. Whether it is so I don't know.

Q. You did not catch one barrel of those 20 barrels within three miles of the shore?—A. No.

Q. You caught one-third of the 120 barrels inshore at the Magdalen Islands?—A. About one-eighth.

Q. You said one-third?—A. I might have said one-third—I meant one-eighth.

Q. Were you correct in saying you caught one-third inshore?—A. If I said one-third let it go so. It does not make any difference whether we got one-third, one-half, or the whole inshore there.

Q. How many of the 120 barrels did you catch inshore at the Magdalen Islands?—A. If I told you one-third it is all right.

Q. Although you said just now it was a mistake, and it was one-eighth and not one-third. Don't you think you caught more than one-third inshore?—A. I don't think anything about it.

Q. Why?—A. Because I don't care whether I caught them inshore or out. At the Magdalen Islands it does not make any difference whether I got one-third inshore or one-third offshore.

Q. But it may make a good deal of difference in regard to telling the truth?—A. I am telling the truth as near as I can.

Q. Which is the truth, one-eighth or one-third?—A. You may call it one-third.

Q. Do you say one-eighth or one-third?—A. I tell you one-third.

Q. Is that correct?—A. It is correct.

Q. Why did you say one-third was a mistake?—A. I thought I said one-eighth at the time; but you said that I said one-third.

Q. Because you said one-third you are going to stick to it?—A. Yes.

Q. Speaking of one-eighth, will you tell me, suppose you got 100 barrels of fish, how many barrels one-eighth would be?—A. It would be one-eighth of 100 barrels.

Q. How many would that be?—A. Eight barrels out of 100, of course.

Q. When you went down to Prince Edward Island, once in a while, you gave them some bait out of pure philanthropy. At all events you gave away bait?—A. Yes; I gave away all I had to them; I never sold any.

Q. You kept clear of the inshore because the cutters were there at times?—A. While I was a skipper I never saw any cutters except one year.

Q. What year was that?—A. The year I was on the Phoenix, 1865 or 1866. They were Canadian cutters. That was the only time I saw them while I was skipper. I saw cutters there while I was a hand.

Q. You are sure you were in the Phoenix?—A. I am pretty certain I was.

Q. In 1866 and 1867 I understood you were in the Martha A. Porter?—A. I cannot be sure about the cutters; I only saw one cutter there while I was skipper.

Q. Can you tell the Commission what was the vessel on which you were when you saw the cutters?—A. I was thinking I was on the *Phoenix*. While skipper, I never saw any except a Canadian cutter, and she was up to the northward where we caught our mackerel.

Q. Did you take out no license the year you saw the cutters?—A. I never took out a license.

Q. Having no license, did you keep clear of the inshore fishing?—A. We caught mackerel off Bonaventure and Gaspé.

Q. You said "broad out."—A. I mean from 12 to 15 miles off.

Q. You did not attempt to go inshore?—A. No, because the Canadian cutters would not let us go inshore if we had wanted to do so.

Q. In 1867, what vessel did you command?—A. The *Martha A. Porter*.

Q. Were you in the gulf that year?—A. Yes.

Q. You are sure of that?—A. Yes.

Q. How many barrels did you take that season?—A. 120 barrels.

Q. Did you see any of the cutters that season?—A. No, I did not; I don't recollect that I did. I don't know that there were cutters that year. I think there were licenses that year.

Q. In 1865, you commanded the *Martha A. Porter* and were in the gulf fishing?—A. I was in the *Martha A. Porter* three years.

Q. Did you state you were in 1865 fishing in the gulf?—A. I think I did.

Q. Is it correct?—A. I think it is.

Q. Have you any doubt about it?—A. No.

Q. Then you swear positively that in 1865 you were in the gulf commanding the *Martha A. Porter*?—A. Yes, I am positive in 1865.

Q. How many barrels did you catch that season?—A. I think it was 120 barrels I stated.

Q. Was the quantity 120 barrels?—A. I might have said 120 or 170 barrels; I have forgotten.

Q. State now what is the fact.—A. One hundred and seventy barrels.

Q. Why did you think it was 120 barrels?—A. I had kind of forgotten, for you have got me mixed. It was 170 barrels.

Q. Are you sure it was 170 barrels?—A. Yes, I am sure.

Q. Have you had figures put down on paper by which you are guiding yourself?—A. No.

Q. Why did you say you had forgotten whether you had stated 120 or 170 barrels?—A. You have been bothering me so.

Q. In 1866, where were you?—A. I was in the *Martha A. Porter*.

Q. Where; in the gulf?—A. I was at the *George's* that year.

Q. In 1867, you were in the gulf in the *Martha A. Porter*?—A. In 1865, 1866, and 1867 I was in the *Martha A. Porter*.

Q. In 1866, you were at the *George's*?—A. I think I was.

Q. By saying that you think, do you wish the Commission to understand you are not quite sure about it, or do you swear that it is the fact?—A. I say I was on the *George's*.

Q. How many years were you on the *George's*?—A. Two years.

Q. After being in the bay in 1865, you were at the *George's* the two following years?—A. Yes.

Q. That places you on the *George's* in 1866 and 1867?—A. Yes.

Q. Are you sure about that?—A. I am pretty sure about it.

Q. You are sure about it?—A. Yes.

Q. What made you swear just now to me, and one hour ago to Mr. Foster, that in 1867 you were in the gulf?—A. I don't think I did.

Q. If you did, it is all wrong, I suppose. You have no accurate idea about dates or figures?—A. Why, I give you it as straight as I can.

Q. Then it is all wrong, that in 1867 you were in the gulf and caught 170 barrels of fish?—A. I don't say it is all wrong. In 1865 I was in the gulf.

Q. How many did you get then?—A. I have stated 120 or 170 barrels. Q. I don't care what you have stated; I want to know what you caught in 1865.—A. I think 120 barrels.

Q. Think it over whether in 1865 you caught 120 barrels?—A. I tell you 120 barrels.

Q. You are sure about that?—A. I am pretty sure.

Q. Then if, in answer to Mr. Foster, you swore you took 170 barrels, it was an entire mistake. You have no doubt now it was 120 barrels?—A. That is what I thought we got in 1865, 120 barrels.

Q. Why did you say you did not know whether the quantity was 120 or 170 barrels?—A. You are getting me mixed.

Q. During the time you commanded the Martha A. Porte, did you not take out a license?—A. No. I never took out a license in my life.

Q. Was any person else besides yourself captain of her at any time during the years 1865, 1866, and 1867?—A. No.

Q. Do I understand that no license could be taken out for her without your knowledge?—A. I don't think it could.

Q. You would be the party to pay the money?—A. Certainly.

Q. Do you know how the licenses were taken out?—A. I do not.

Q. Do you know how much was paid per ton?—A. No. It is something I had nothing to do with.

Q. You never took out a license at all?—A. No. I never took out a license.

Q. During 1866 and 1867, when in the bay, as you had no license, you would take care that you did not go within the three-mile limit?—A. We could fish as well as ever we could if there were any fish to catch.

Q. You were not afraid?—A. We were not afraid of the cutters.

Q. Why did you not take out a license?—A. Because I did not want to take one out. I went to fish at Magdalen Islands.

Q. You did not intend to fish around Prince Edward Island?—A. I did not see any cutters. I could not say positively whether there were cutters in the bay that year or not. I don't recollect seeing any.

Q. You swear positively that no license was taken out by you?—A. No license was taken out by me.

Q. You swear positively that in 1867 you were not in the bay at all, and you were on the Georges?—A. Yes.

Q. About that you cannot be mistaken. You recollect being in the gulf in 1865 and taking 120 barrels. You swear positively that the next two years you were on the Georges?—A. Yes; I was on the Georges.

Q. You swear positively you were not in the gulf at all those years?—A. Yes.

Q. Can you be mistaken about that?—A. I don't think I can.

Q. How do you account for swearing, in answer to Mr. Foster, that you were in the gulf in 1867, and that you took, I think, 120 barrels?—A. I don't think I did say that.

Q. Now, that I tell you you did, are you going to stick to it?—A. I think I was on the Georges those two years.

Q. Have you any doubt about it?—A. I have no doubt but that I was.

Q. If there is any mistake about that, your memory is all gone?—A. My memory is not all gone yet; I guess I can stand it a little while longer.

Q. I understand you that in 1865 you are sure you were in the bay

and got 120 or 170 barrels, and the next two years, when commanding the Martha A. Porter, you were on the Georges?—A. Yes.

Q. Were you more than two years on the Georges Banks in the Martha A. Porter?—A. When in the Martha A. Porter, in 1865, I was on the Georges, because I did not go to the bay until July. I was on the Georges in 1866 and 1867.

Q. You were not in the bay at all in 1866?—A. No.

Q. Nor in 1867?—No.

Q. You are sure about that?—A. Yes.

Q. Then there were three years, one after the other, you were on the Georges in the Martha A. Porter, that is the early part of 1865 and 1866 and 1867?—A. Yes.

Q. It is then an entire blunder if you told Mr. Foster you were in the bay in 1867 in the Martha A. Porter?—A. It is a mistake if I told him so.

Q. In 1869 you were on the Georges. In 1870 you were on the Phoenix in the gulf, and got 120 barrels. Is that right?—A. Yes.

Q. How did it happen that you said, when Mr. Foster was examining you, that in 1865 you caught 180 barrels, and then you put it at 170, and now in answer to me you swear positively you caught 120 barrels?—A. I got mixed. I knew there were 120 barrels somewhere.

Q. Nobody mixed you about 1865; it was your own deliberate statement.—A. Well, I know; I was thinking of the Phoenix when you were asking me about the Martha A. Porter.

Q. In 1865 how many barrels did you catch?—A. 170 barrels.

Q. Of that you are quite sure?—A. That I am sure of.

Q. Why was it you told me the quantity was 120 barrels?—A. I tell you I got mixed up about the Phoenix and the Martha A. Porter because the year afterward I was in the Phoenix. I was in the Martha A. Porter three years and in the Phoenix three years. I took the Phoenix trip for one of the Martha A. Porter trips.

Q. There is a difference of ideas?—A. I know that.

Q. Have you any explanation to offer as to your swearing at one time that in 1867 you were in the gulf and now swearing you were not?—A. I said I was not.

Q. You have no explanation to offer for swearing you were?—A. I think I was two years at the Georges.

Q. You have no explanation to offer?—A. No.

Q. In 1870, when you took 120 barrels or 170 barrels off Magdalen Islands, did you fish anywhere else; and if so, where? That was in the Phoenix.—A. Yes; we fished up West Cape, I mean on the west shore, off Bonaventure and Gaspé.

Q. What did you get there?—A. We got mackerel there—part of them.

Q. How many did you get?—A. At the time we fished there, I think 180 barrels.

Q. Was that in 1870?—A. I think it was.

Q. You got those up at Gaspé and Bonaventure?—A. Gaspé, Bonaventure, Pigeon Hill, and along on that coast. I don't say we caught them all off Gaspé.

Q. Pigeon Hill is on the New Brunswick shore, on the southern shore of Bay Chaleurs?—A. It is on the southern shore of Bay Chaleurs on the western side. It is a few miles this side of Point Miscou.

Q. That would be on the shore of New Brunswick, not in the bay?—A. I was not in Bay Chaleurs except once in my life.

Q. Off Gaspé, how near the shore did you get them?—A. From 12 to 15 miles off.

Q. Not inshore at all?—A. We did not catch any mackerel inshore that year. The Canadian cutters were round there and were cruising up and down at the time, and if there had been any mackerel there we could not have gone inshore.

Q. That is the reason why you did not try inshore?—A. Of course, it was one reason, because the cutters were cruising up and down and we could not try.

Q. In fact, you did not attempt to go inshore to fish that year?—A. We did not catch any inshore.

Q. Did you try?—A. I don't think we did. We might have hove to inshore and tried. I cannot be positive that we did not heave to inshore and try for mackerel, but we never caught any inshore. The mackerel were off shore that year.

Q. Do you mean that was unusual?—A. I don't mean it is unusual. The mackerel were off shore and went out of the bay early. None were caught there after 1st October.

Q. Do mackerel ever go inshore there?—A. I suppose they do, and go up Bay Chaleurs sometimes.

Q. Do they ever go within three miles of land?—A. Yes.

Q. Is there good fishing as a rule within three miles of shore?—A. I don't know. I think it is likely that there is sometimes good fishing within three miles of the shore.

Q. Are you sure what vessel you commanded in 1870?—A. It was the Carleton.

Q. You are sure of that?—A. Yes.

Q. Did you not state that you commanded the Phoenix in 1870?—A. I mean the Phoenix.

Q. Now, will you swear positively that in 1870 you commanded the Phoenix?—A. Yes, sir, I will.

Q. Will you swear positively that you got 180 barrels of mackerel off Bonaventure, as you call it?—A. Yes.

Q. Did you say that you sailed from the Strait of Canso to Bonaventure?—A. We ran up the island and tried there.

Q. And you did not go to the Magdalen Islands?—A. O, yes; we did.

Q. Did you go to the Magdalen Islands, and fail, and then go on to Bonaventure?—A. We tried off the island and North Cape, and then ran across to the Magdalen Islands. We did not find mackerel there, and we then ran across to Bonaventure from the Magdalen Islands.

Q. And did you get the fish there?—A. The most of them we did.

Q. Did you not, in answer to Mr. Foster, state that on that trip you got either 120 barrels or 170 barrels off the Magdalen Islands? And now you swear positively that you caught about 180 barrels, and that you did not get any at the Magdalen Islands, but that you got them somewhere off Bonaventure.—A. No; I do not think that I did.

(Statement of witness on this point during examination-in-chief was here read.)

Q. How do you reconcile those two statements?—A. I told him that we caught some at the Magdalen Islands and some at Bonaventure.

Q. So that the statement which you made to Mr. Foster, according to your present statement, is utterly untrue; and, instead of catching 120 or 170 barrels at the Magdalen Islands, as you told Mr. Foster, you caught absolutely none at the Magdalen Islands, but all at Bonaventure.

You are all astray about this evidence, are you not ? Did you ever hear of the Reciprocity Treaty ?—A. What is that ?

Q. Did you ever hear of that treaty ?—A. I do not know as I understand what you mean.

Q. Did you ever hear of the Washington Treaty ? You have no idea as to when the Reciprocity Treaty began or ended, or of anything of that sort ?—A. No ; I have not.

By Mr. Foster :

Q. During how many years were you in the Gulf of St. Lawrence in command of the Martha A. Porter ?—A. Three.

Q. Do you mean in the Gulf of St. Lawrence ?—A. No. It was one year that I was in the gulf in her.

Q. You were only one year in command of the Martha A. Porter previous to the years when you went cod-fishing ?—A. Yes.

No. 5.

Capt. NATHANIEL E. ATWOOD, manufacturer of cod-liver oil, and formerly a fisherman, of Provincetown, Mass., was called on behalf of the Government of the United States, sworn and examined.

By Mr. Foster :

Question. You told me, I think, that you were 70 years old last Saturday ?—Answer. This was the case last Thursday.

Q. Have you been for a large part of your life a fisherman ?—A. Yes.

Q. And also a naturalist ; you have studied the habits of fishes ?—A. I have to some extent ; I hoped to do something for the advantage of science in that direction.

Q. You have been a member of the house of representatives of Massachusetts ?—A. Yes ; in 1857 and 1858.

Q. And also a member of the senate of the same State ?—A. Yes ; in 1869, 1870, and 1871.

Q. I think that you gave a course of lectures, 12 in number, before the Lowell Institute in Boston, some years ago, on the habits of fishes ?—A. Yes.

Q. When did you first come to the Gulf of St. Lawrence to fish ?—A. I came to this gulf in 1824, in the schooner Independence, for the purpose of catching codfish.

Q. And for what purpose did you then catch mackerel ?—A. Wholly for bait.

Q. During what years were you cod-fishing in the Gulf of St. Lawrence ?—A. I went there again in 1825 in the schooner Independence, and in 1828 I was there in the schooner Missouri.

Q. When did the mackerel fishery in the Gulf of St. Lawrence begin, as far as you know ?—A. I have no knowledge of any vessel having come to the gulf for mackerel, although I have been told that probably some did come previously, until 1834, when I was fishing for mackerel on our own coast. Three vessels then went from our place, and three also from another place in the States, I am informed, to the gulf for mackerel. They met with good success, got full cargoes, and returned in a very short time.

Q. When did you first fish for mackerel in the Gulf of St. Lawrence ?—A. The next year, 1835.

Q. And during how many years have you been fishing for mackerel in the Gulf of St. Lawrence ?—A. I made six trips during as many seasons.

Q. What years were these?—A. I was there in 1835 and 1836, and again in 1838, 1841, 1842, and 1851.

Q. When did you go there first as captain?—A. I was captain—that is, my name was so mentioned in the papers—first in 1842. My brother acted as captain other years. We were together, and together we owned the vessel.

Q. You and your brother were the owners?—A. Yes; sometimes he and sometimes I was master.

Q. During the years when you fished for mackerel in the gulf, where did you fish for them?—A. In 1842 I was first master, and in 1835 I first came to the gulf for mackerel. When we arrived there we could hear of no mackerel anywhere. We went toward the Magdalen Islands, and about eight miles off from them to the southwest we got a large number of mackerel the first day we were there. This induced us to fish in that vicinity, and we fished between that and the West Head of the Islands, as we call it, or Deadman's Island, as it is sometimes called.

Q. Is that part of the Magdalen Islands?—A. Yes; it is the west end of them. We fished there all that trip, and the result was that we got about 180 barrels, speaking in round numbers. The crew received a large share, and did much better than those who fished to the westward that season.

Q. Where did you fish during the remainder of the six years?—A. The next year, 1836, was my second year there at the Magdalen Islands, I having done so well there the years previous. I want it to be understood that I was in a small vessel with a small crew.

Q. Perhaps you will give the tonnage and the number of the crew?—A. Her tonnage was 59, with the then reckoning, but now it would be called less than 40. We went direct that year to the Magdalen Islands, and we found that there had been some mackerel caught there, but none within a few days of that period; and as we had heard that mackerel were sometimes taken at Newfoundland, we bore up and went over there. The next day after our arrival we tried near Cape St. George, but though we tried all day, we never saw one, and so we returned to the Magdalen Islands, and remained there during the fishing term until we obtained a full cargo—225 barrels. We afterward proceeded westward, and found that vessels which had been fishing about Prince Edward Island, and further up on Bradley Bank and elsewhere, had done better than that; but we were satisfied; our voyage suited us, and we had got all we wanted.

Q. What did you do the next year?—A. The next year my brother and I bought a little vessel and fished around home, and we finally concluded to go to the Bay of St. Lawrence. We did so, and stopped there some six weeks.

Q. When was that?—A. In 1838. We stopped only six weeks, and we got only about twenty barrels.

Q. Where?—A. We were at the Magdalen Islands all the time. We had poor sails and a poor vessel, and we found it much safer about the Magdalen Islands. We always considered it safer than in the bight of Prince Edward Island.

Q. And twenty barrels were all that you got that year?—A. Yes. We came home about the 20th of September. We went to the bay in August, and we remained there, I think, about six weeks.

Q. What did you do the next year?—A. The next year, when I went to the bay, was in 1841.

Q. Where were you during the intervening years?—A. In 1839 I

went in my own vessel, the *Lucy Mary*—which was the one in which I first went to the bay—to the Grand Bank. Mackerel were scarce, and the prospect was discouraging, so I went cod-fishing, curing the fish myself. I then hauled the vessel up and did not go for mackerel until 1840. I did not then go to the Grand Bank, and having no fish to cure I had to go mackereling somewhere. There was at the time no encouragement to fish for mackerel, either on our coast or in the Gulf of St. Lawrence, and as people had told me stories about mackerel being found at the Azores, I was induced to fit out and go there.

Q. Did you get any mackerel at the Azores?—A. No.

Q. What did you do the next year?—A. I went again to the Gulf of St. Lawrence in 1841, when we fished off the Magdalen Islands. We got about 100 barrels of very excellent mackerel. They were about all number ones, I think; there were very few number twos. The next year I also went in the same *Lucy Mary*, to the Gulf of St. Lawrence, fishing off the Magdalen Islands. I was in the bay in 1841 and 1842. We staid there until the end of the season, but secured only 60 barrels. I was then master—that is, my brother was not with me, and I was master of the vessel. I went home with 60 barrels. This was my experience in the Gulf of St. Lawrence up to 1842. I was there since in 1851, when I was in a schooner called the *William Gray*, 58 tons. She was a small and dull-sailing vessel. I thought we would be much safer off the Magdalen Islands, and so I went there as I had done during previous years. I staid there until the middle of September, but was not very successful, getting only 90 barrels; so I concluded to go over to Prince Edward Island and try there. I did so, and the next day after my arrival I found that I was in more danger at this place than at the Magdalen Islands, for I was that day cast away, and I lost my vessel.

Q. When was this?—A. In 1851. I was cast away on Fish Island, at the entrance to Malpeque Harbor.

Q. Was this in the great gale, or previously?—A. It was two weeks before the great gale. I cleared up my wreck, saved what I could, took the mackerel out and shipped for home, going on board of another vessel. I was off the mouth of St. Peter's Harbor when the great gale came on, and we were then cast away again. So I was cast away twice in a fortnight. This seemed to prove, to my mind, that Prince Edward Island was more dangerous than the Magdalen Islands.

Q. You speak of fishing at the Magdalen Islands being safer than at Prince Edward Island; explain why it is that you think so.—A. Suppose we were at the Magdalen Islands and it looks stormy. If the wind is blowing on shore where we are, we just run round to the other side of the islands and anchor under the lee. If the wind blows up and it becomes stormy, we are there very comfortable, and night or day we hold ourselves in readiness to get under way and get to the other side again, in case the wind should happen to change. Thus I have been round and round the islands, time and time again.

Q. Are the Magdalen Islands regarded by the American mackerel fishermen as a safe place?—A. Yes, I think so.

Q. And as safe as any in the gulf?—A. I think so; to a person well acquainted with them, they are considered as safe as any part of the gulf, and I consider them, for my part, safer. I do not know that every body is of the same opinion, but I think this would be the case if they are thoroughly acquainted with the matter.

Q. Did you ever catch mackerel, and, if so, how many, within three miles of the shore in the Gulf of the St. Lawrence, elsewhere than around the Magdalen Islands?—A. Yes.

Q. How many did you so catch?—A. During my first year in the Gulf of St. Lawrence, when we got 180 barrels, we fished at the west end of the Magdalen Islands, and when we set out to go home, the wind freshened from the southward, and we struck in somewhere near St. Peter's Sandhills, as we called the place, and while reefing the foresail, we hove the vessel to, and I threw out a few shovels full of bait. Mackerel came up, and seemed to be very abundant, but we only caught about half a barrel. Night came on just as soon as the foresail was reefed, and hoisting it up, we hauled in the hand-lines instead of anchoring there, and went about along shore, hove to and let the vessel drift off. Next day we got back to Pleasant Bay, Magdalen Islands. That was all we got there that voyage, and we never fished anywhere, or caught any mackerel on the Prince Edward Island side, or anywhere within the restricted limits, until 1842. During that year I was passing Port Hood late in the afternoon—it was just nightfall—when I hove to and tried the school, and I do not think that I was at the time three miles offshore. I did not fish there over a day, and we obtained a few mackerel, perhaps six or seven barrels. When I came to talk with the crew, some said we were six miles offshore, and some four miles, and so on; but I will tell you what I thought about it: This was, that if a cutter came along he would take me, so I considered that I did not need to stay there. Soon after dark I discovered a vessel running down apparently towards the Strait of Canso, and hauling up for us. I was afraid she was a cutter, and I was then very sorry that I had obtained any mackerel there. She happened, however, not to be a cutter, and I got away the next day. This was all the mackerel I ever caught within the three-mile line.

Q. Since you ceased fishing for mackerel in the Gulf of St. Lawrence, have you fished for mackerel anywhere?—A. O, yes; some, though not a great deal. I fished some on our coast.

Q. Before I make any general inquiries on that subject, I wish you to make a statement, if you have prepared such a one, as to the whole number of mackerel-fishing vessels which have gone from Provincetown, where you reside, to the Gulf of St. Lawrence, and their catch since 1870.—A. Going back to 1870, we had that year 41 vessels engaged in mackerel-fishing, not one of which went into the gulf. They all fished on our coast. The aggregate quantity of mackerel which they all packed was 37,552 barrels. In 1871, we had still 41 vessels, which still continued to fish on our coast, having done pretty well there the year before. None went to the gulf. The aggregate catch which these vessels packed amounted to 24,918 barrels. In 1872 we had 36 vessels, of which 3 went to the Gulf of St. Lawrence, leaving 33 fishing on our own coast. These 36 vessels packed out 16,303 bbls., and the 3 vessels which went to the gulf packed out 785 barrels, making an average, per vessel, of 261 $\frac{1}{3}$ barrels.

In 1873, when the Washington Treaty went into effect, as we intended going to the bay, having now no fear of the cutters, we enlarged our bay fleet, and so 6 went there that year instead of 3. Two of these 6, or one-third of them, were lost in the gale in which so many vessels were lost. The vessels lost were the schooner Helen M. Woodward, off the Magdalen Islands—the vessel was a total loss—and the Carrie P. Rich, off North Cape, Prince Edward Island, vessel and crew total loss.

The latter went to the bay early in the year, and she had shipped some mackerel home before the gale took place. She was lost with all she had on board. The whole catch of these six vessels that year was 845 barrels. In 1873 we had 38 vessels, and their total catch was

15,772 barrels, including the 845 barrels mentioned. In 1874 we had 35 vessels engaged in the mackerel fishery, and they packed out 23,098 barrels. Three vessels went to the gulf, bringing home 590 barrels, which are included in the total catch of the 35 vessels, 23,098. In 1875 we had 37 vessels, which packed out 10,613 barrels. Two of them went to the gulf, and they brought home 270 barrels, which are included in the gross amount stated.

In 1876 we had 32 vessels, whose total catch was 16,150 barrels. Two of them went to the Gulf of St. Lawrence, bringing home 202 barrels, which are included in the 16,150. These totals make a grand total of 144,406 barrels, of which 2,692 were caught in the Gulf of St. Lawrence in 16 voyages, during the several years I have named. The average catch of these vessels since 1872, and since the fishery clause of the Washington Treaty went into effect, was $146\frac{1}{2}$ barrels per vessel; and prior to that the average was $261\frac{1}{2}$ barrels per vessel, in the Gulf of St. Lawrence.

Q. What becomes of the mackerel in the winter? Does anybody know?—A. I can answer that very quickly as far as we know: they go away; but this does not answer the question, I am fully aware. The mackerel are a very curious species of fish. They come on our coast in the early part of the season, and remain there throughout the summer; and when the water becomes chilly they go off into deeper water; but it is impossible for me or for anybody to tell where they go. In my opinion, however, they go off until they find the right temperature of water, and there I presume they remain until the following year, when they return in their annual migration.

Q. When and where do they first make their appearance in the spring off the coast of the United States?—A. I have had no practical experience in fishing for mackerel south of Cape Cod. My mackerel fishing was carried on in the region of Cape Cod and in the Gulf of St. Lawrence. I know, however, from my own experience, that the farther south you are, the earlier in the year do the mackerel make their appearance. They appear, for instance, earlier off Cape Cod than in the Gulf of St. Lawrence; but I have never heard of any vessel going south for mackerel on our coast farther than Chincoteague Shoals, on the east coast of Virginia.

Q. How far is this point north or south of Norfolk?—A. It is a considerable distance north of Norfolk. I have heard of men going down off this point, but it is the most southern point where, to my knowledge, the mackerel fishery is prosecuted early in the season. Any number of vessels fish off Cape May early in the year, because the mackerel school at the mouth of Delaware Bay; and afterward the fish arrive off Sandy Hook at the entrance to the port of New York, which is another great mackerel-fishing place. They are taken off Long Island and afterward off Block Island. Mackerel fishers do not like to fish a great way from a harbor for fear of storm. Later the mackerel reach our bay north of Cape Cod, and in this manner they make their course northward.

Q. About what time do they reach Provincetown?—A. A few straggling specimens are sometimes taken with gill-nets, not with the hook, about the 10th of May. I have known them to be caught there as early as that or about the middle of May. Then we expect their number to increase before a great while, and I have seen them there in large quantities as early as the 20th of May. I have then gone out in my boat with a boy 14 years of age and caught with my nets over 2,000 during one night, and the next night we took, I think, 3,520.

By Hon. Mr. Kellogg:

Q. When was that?—A. In 1856, I think.

By Mr. Foster:

Q. Has there been good mackerel fishing at various points off the coast of the United States, say during the last ten years?—A. Oh, yes. It has been twenty years, however, since I participated in the mackerel fishery. During the last ten years the mode of fishing has changed, being entirely different from that formerly pursued. The mode of catching mackerel has changed more than once since I first went fishing.

Q. Explain.—A. In my boyhood when I caught my first mackerel nobody thought of jigging them. We then took them in the same way bluefish are caught. My first experience in mackerel fishing took place when I was a little boy. I went out with two old men. One of them fished in the stern of the boat, and when it did not sail fast enough the other and myself—I was eight years old at the time—had to row, in order, by the more rapid motion of the boat, to induce the fish to bite. They would not bite unless the line was towed. Two great long poles were run out, one just forward in such a manner that our vessel had the appearance of a long armed spider. The poles were straight and one line was fastened at one part and another line on the end of the pole, in order to have them separated. This style of fishing continued until about the time when I began to go to sea. Jigging for mackerel then commenced, bait being thrown overboard and the fish being thus attracted alongside of the vessels, and it came into general use. The first year that I fished for mackerel on this coast was in 1826, and having changed from the laborious and exposed business of cod-fishing on the Labrador coast, I took a good deal of notice of what passed, and consequently I still remember a good deal about the voyage. We sailed from Provincetown on the 28th of June, and went down to a point some twenty leagues north-east of Cape Cod.

On the day following we saw one school of mackerel, and, getting into it, we threw out bait, and caught, well, some three or four barrels. That was the first school which we met with; and this happened on the 29th of June. It was the last school we saw until the 13th of September, my birthday; this was a very large school. In five weeks we caught 238 barrels of mackerel, and, although it was early in the season, still they packed very well. After they were packed we went out again and secured 250 barrels where we saw the school of mackerel on the 13th of September.

Q. What is the present mode of catching mackerel?—A. Now they carry a large seine, worth \$1,000 or more, and have very large crews. Men go out from the seining-vessel in a boat, and shoot the seine—these seines are from 200 to 300 fathoms in length and from 20 to 25 fathoms in depth—around the school, and thus catch from 100 to 150 barrels at a time; this is the present mode of fishing. We have 30 mackerel-fishing vessels which left Provincetown this year, being two less than last year, and one of them went to the Gulf of St. Lawrence. All of them carry seines.

Q. Do you know what success the one which came to the gulf has had?—A. No. I have not heard from her, though I called on her owners. I obtain my statistics personally from the owners and agents of the vessels.

Q. With purse-seines, of course it makes no difference whether the mackerel will take the bait or not?—A. No.

Q. A good many opinions have been expressed with regard to the throwing overboard of gurry, or the offal of mackerel. Does this, in

your opinion, injure the fishing-grounds?—A. We now use menhaden for bait, but when I first went fishing we did not do so. Our practice then was to grind up small mackerel for the purpose. Any quantity of these mackerel were at that time to be found along the coast, and plenty of them are there to be met with now. These fish were of no great account then, and so we ground them up for bait; and when we could not obtain any of them, we ground up for bait what you call gurry, the inwards of fish with the gills attached; we did not like to use large fish for the purpose. It is my opinion that the throwing overboard of the offal which comes from mackerel, and which, in the aggregate, is comparatively small in quantity, does no damage whatever to the fishing-grounds. This may not be the case, but I fail to discover that this practice does any such damage whatever.

Q. When any substance of that sort goes to the bottom of the sea, what provision of nature is there for getting rid of it?—A. I know of places in the sea where you can put down any animal matter, and it will be eaten up by marine animals, which we call sea-fleas. I have seen this happen on the Banks of Newfoundland. I was carrying menhaden for bait at the time, and, having cut off a piece, I lowered it on a hook, and in a remarkably short space of time I hauled it up and found nothing left save the skeleton. Every particle of flesh was eaten off. Clams, however, were not touched.

Q. What bait do the American fishermen almost exclusively use for mackerel?—A. Menhaden, when they fish with hooks. The superiority of this bait over other kinds is such that when the fish can get menhaden they won't take any other. At first mackerel fishermen were afraid of this bait. It is a very bony fish, and they then thought that if it was cut up for bait the mackerel would soon get sick of it, owing to the number of the bones. There is a species of fish belonging to this family found on our coast which is exceedingly fat, we call them blue-backed herrings, and some preferred this fish for bait, as it was not so bony as the menhaden; but when the poorer mackerel got to be worth having, about everybody adopted menhaden for bait.

Q. When did bait-mills begin to be used?—A. About 1824 or 1825, I think. In 1826, when I first fished on this coast, we had bait mills; previously they cut up bait with hatchets. Sometimes a double watch was set, and two men chopped bait all night.

Q. Those who fish now with bait use these bait-mills?—A. Yes; and menhaden if they can get them. This is the cheapest bait, and it is considered a good bait.

Q. What has been the effect of seining for mackerel in reference to the diminishing of the quantity of fish, in your opinion?—A. I think, though I do not know that I am right, that fishing in any locality with seines has a tendency, to a large extent, to increase the diminution and to make the fish scarcer. It disarranges them and drives them away probably to some extent. I think that, on the whole, seining is in a measure injurious to the fisheries, which will be better and stand better if prosecuted with the hook and by jigging in the old way, without seining. There is a diminution in the number of mackerel in certain places, though it is not seining that has made them scarce in the gulf.

Q. Why do you say that it is not seining which has made them scarce in the Gulf of St. Lawrence?—A. I understood that I had a right to communicate information that comes from others, and people who go to the Gulf of St. Lawrence to fish tell me that they cannot make their seines work there.

Q. Why?—A. Because the water is too shallow and the bottom too rough. I never found a man who was successful with seines in the gulf.

Q. What is the food of mackerel, and where is it found?—A. We find small fish in mackerel, and sometimes they do not seem to have any food in their stomachs. One species of food found in mackerel is a small fish, very much elongated, which is called variously the sand-eel or lantz. I have found them 20 miles off shore in Massachusetts Bay, and they are also to be found around our coast in the offings. About all our fishing folks there call them the sand-eel, but down on the coast of Labrador just such a looking animal is called the lantz, and on the Grand Bank, where they are to be met with in vast abundance, they are also called the lantz.

Q. Then this lantz or sand-eel is not the exclusive property of inshore places?—A. We find the same inshore in Provincetown harbor sometimes. They go down into the sand very rapidly, and by cutting along the sand-bars with a knife they can be made to jump out.

Q. You say that they are enormously abundant on the Grand Banks?—A. A fish that looks like them is to be seen there, but whether it is the lantz or sand-eel, or whether it is a distinct and different species, I would not pretend to say. Scientific men will, perhaps, be able to settle that point. That is one kind of bait. Another kind is young herring. We find them in the mackerel, which also feed on the young of their own species, which they devour so long as they are small enough to be swallowed. I have seen a mackerel with young mackerel in its stomach, and the caudal fin or tail sticking out of the large fish some little distance. Even then these mackerel would bite at the hook, for they seem to have good appetites. Everywhere I have fished there is also to be found in the mackerel what I believe to be, and what I think scientific men have told me, is a species of crustacean, belonging to the class of lobsters, crabs, &c.,—our fishermen sometimes call them Cayenne, but I do not pretend to know just what they are.

Q. Does it go by the name of brit?—A. No. What we call brit is a small fish, and what is called brit in other places is not a fish at all, but another sort of an animal. What we sometimes term brit is the little herring which the mackerel eat. This is the young of what we call sea-herring.

This has been described by some naturalists as a distinct species of fish. Professor Peak, of New Hampshire, many years ago called it the *Clupea minima*, a distinct species, but I consider them to be the young of the herring. Besides these kinds of bait, the stomachs of mackerel are found filled with a very small red substance. In a load of mackerel this is sometimes the only food found in them. It seems to be a great favorite as food amongst these fish.

Q. Are any of these species of food which mackerel eat to be found away off in the ocean?—A. I have found the little crustaceans, which I mentioned, everywhere that I have fished for mackerel, in considerable abundance. Though voracious feeders, they will sometimes not bite when they have nothing in their stomachs; it would, however, be too long a story to tell you about their habits as to the minor details.

Q. Is the food of mackerel to be found miles and miles off shore?—A. Yes. There are herrings which spawn in certain localities along our coast about this time. The same species spawned around the Magdalen Islands last spring. They spawn up here outside of Boston light and away down along the coast of Maine in October; and probably the young of this species are more plentiful inshore than at any great distance from the land; but the young of these fish do wander away from the shore. One thing I do know in this relation is this—that the young produced from this spawn deposited this fall is found next spring

and all next summer around our coast; but as to how far they go out I am unable to say. Still I do not think that they are so plentiful ten miles from land as inshore.

Q. Where do mackerel spawn on the American coast?—A. They first come in from the south, and come north gradually; and when they first make their appearance they are always met with having their spawn nearly matured.

Q. This is the case on their first appearance on the American coast?—A. Yes. The mackerel, like some other species of fish I could name, come in poor and destitute of fat, being only number threes according to the Massachusetts inspection law; and when they reach Provincetown those that have come in from the south have, I think, spawned at places at which they have found about the right depth of water for the purpose. I have never fished south of Cape Cod, and hence could not vouch for that; but the fish that come in east of Nantucket and South Channel do not fall in with land or a shoal channel until they strike back of Cape Cod, and, winding round, come into the southern part of Massachusetts Bay. In that locality I have fished with gill-nets, for a great many seasons, at the time of their arrival, and they only last till the bluefish make their appearance. We have six or seven weeks of mackerel fishing, and generally do something considerable at it; but after the bluefish come in the mackerel leave, as that drives them all off and ruins our fishery. I watched the mackerel more particularly with regard to their time of spawning in 1856, owing to the fact that a measure had passed the Massachusetts legislature authorizing the appointment of three commissioners to make investigations with regard to the artificial propagation of fish, and I expected to be named one of the commissioners; accordingly I went to the upper part of Massachusetts Bay, where it is about twenty miles broad, and I found these spawning mackerel there near the bottom. When I first began to catch them I discovered that the spawn had come to its full size, though it was not free to run from them, because the time for this had not yet arrived. I began to catch the mackerel about the 20th of May, and by the 1st of June we found that some of them were depositing spawn, and about the 5th of June, I think, the spawn was coming freely from them. I then took specimens and put them in alcohol, and fished until the season was over. By the 10th of June they had all deposited their spawn, and they then proceeded to the grounds where they expected to meet with better food, in order to fatten and recruit.

Q. Over how many days does the spawning season for a particular school of mackerel extend?—A. With the school that comes there, I do not believe that on the expiration of ten days from the time when they first begin to spawn a spawning mackerel is left.

Q. Then you call the spawning period, for a particular school, about ten days?—A. Yes. I had previous experience with regard to this matter.

Q. How soon, after they have ceased to spawn, do they begin to get fat enough to catch?—A. We catch them as soon as we can. We do so all the time they are spawning and afterwards. Cape Cod mackerel spawn, however, by the 10th or middle of June. Then along about the last of July we take mackerel with considerable fat on them. Some years they become fat earlier than other years, and they increase in fatness until September, and pretty well into October, but when the water becomes cold they begin to get poor again and go off the coast. I have known the last school which has gone off the coast to be quite poor;

although packed as number ones, they nevertheless did not have much fat on them.

Q. When are mackerel in the finest condition off the coast of the United States—say from Cape Cod down?—A. I should say, taking one year with another—years differ a little—say from the middle of September to the middle of October, I could get as nice mackerel as could be procured at any time during the year, and then good mackerel, some years, can be obtained as early as the middle of August.

Q. Is it your opinion that some of the schools of mackerel found on the coast of the United States remain there during the entire season, or do they all go north of the coast of Maine?—A. I think that the mackerel which come in south of us, and then strike into Cape Cod and Massachusetts Bay, and north of that, and some of them farther eastward, come in from the deep water, where they have wintered, and strike on and back of George's Bank. This is my opinion. I consider that they come from their winter quarters all along the coast, from away down as far as Chincoteague Shoals to Newfoundland. I have no idea that the mackerel which are on our coast in the region of Cape Cod and south of that, or anywhere near that, ever come down the coast here and pass Halifax. I have never thought that they did so; but then I cannot bring evidence to prove that they did. I never saw mackerel between Cape Sable and Cape Canso, though I have seen some at Louisburg, on the south shore of Cape Breton Island, when I was there once. I never saw these mackerel, but I fully believe that mackerel do come in the spring northward by Halifax, and again pass this way in the fall. But then I think that after the mackerel which pass Halifax get to Cape Sable they pass off the coast.

Q. I wish you to state how late in the season you have successfully fished at the Magdalen Islands.—A. I could not remember the date exactly; but I should think that we never staid at these islands later than about the 1st of October, though it may have been the 10th of that month; but that is about the latest period.

Q. Have you found mackerel good in quantity and quality at the Magdalen Islands as late as the 1st of October?—A. I think that is the case. I believe that it was October before we left these islands the first year I was there; and we caught mackerel just before we left them.

Q. How young are mackerel good for anything to eat, and how long does it take them to attain maturity?—A. Permit me to go back to the time when I put the spawn I mentioned in alcohol, when I was expecting a commission to arrive from the government.

Q. It came after a while, did it not?—A. Yes; and just when the fishing was done. We had succeeded very well, and it worked in as nice as could be. I was then investigating the mackerel spawning time, and the growth and development of their young, as far as this was possible for me to do. And 25 days afterward I went out into the bay and found any quantity of schools of little mackerel, which, I should think, were about two inches long, though their length might have been a little less. However, I know that they were very small, and I put some of them in alcohol, marking the dates. Twenty-five days afterward, when I went out again, I procured a quantity of them which had grown double that size. I do not mean to imply that they were twice as long, but twice as heavy. I took some of them out and marked the date, and the first time I subsequently went to Boston I called on Professor Agassiz, as I had been with him for a considerable time, and gave him these several specimens. He said that he had never been previously able to ascertain these facts so clearly and so well, and was very much pleased

with them. I watched the growth of these young mackerel all along, and I saw them grow considerably from month to month, so much so that the same fall, in the latter part of October, I caught some of them with a very small meshed net on shore and split them. Mackerel were then very scarce and very high in price, and I sold them for as much as \$6 a barrel. We do not find them to be very good food, but, in the absence of other and better mackerel, and in consequence of their very high price, some people will buy them.

By Mr. Davies:

Q. How long were they?—A. I think they might have been seven inches long.

By Mr. Foster:

Q. What do you call them?—A. They are sometimes called spikes, but I do not know their proper name. I consider that they were hatched in the previous spring.

By Mr. Dana:

Q. They were about four months old?—A. Yes; four or five months.

By Mr. Foster:

Q. How old is a tinker?—A. Two years. These were the little ones which go off with the big ones to their winter home. The first mackerel that come in are always large, and spawners; and the last that go off the coast are also large; but these do not bite at the hook, and you do not catch them with the seine, because they do not show themselves. You would not know of their presence if you did not set nets for them; and when they are taken in nets set anywhere along the coast, at Provincetown, &c., a good many people imagine that they are the remnant of the mackerel which were there the year before, and which have been imbedded in the mud, and when they taste these fish they fancy that they taste mud.

Q. The mud taste is all due to their imaginations?—A. Yes; they are taken in nets all along the shore, and they do not bite the hook anywhere. When the next school arrives there appears a mixture of mackerel of different sizes, which take the hook, and are being caught in schools now. They are carried to Boston market, where they are culled and denominated "large ones," "second size," "tinkers," and "blinks." Any man who is well acquainted with them will make the same culling, as there seems to be a line of demarkation drawn between the different kinds, and it stands out prominently. Admitting this to be the fact, those that come on as blinks are from the spawn of the year before, while those which are called tinkers are from the blinks of the year previous, being then two years old, and those that are called second size are from the tinkers of the year before; when they grow up and mix with the bigger ones I do not know how they live or much about them; this is my opinion about these matters. You will find fishermen who will tell you they think that mackerel are six or seven years in getting their growth.

Q. Will you give us your opinion about mess-mackerel, and number ones, twos, and threes?—A. The law of Massachusetts, which compels the inspection and packing of mackerel, defines them. The largest and the fattest of the mackerel, provided that they are 13 inches long and the anterior portion of the head to the fork of the tail or caudal fin, are large enough for number ones; also, all mackerel from 13 to 17 and 18 inches in length, and the very largest mackerel, are number ones under

the Massachusetts inspection law. In regard to mess-mackerel, there is a peculiar way of dressing them.

If I have an order for mess-mackerel I take number ones and cut off their heads and the tails or caudal fins and put them into kits. They are then sent off as mess-mackerel. The very largest and fattest number ones which are more than 13 inches long are selected for mess-mackerel. Now, when you come to number twos you still want mackerel which are somewhat fat, and mackerel may be longer than 13 inches and still not be good enough for number ones—because these would be number twos—that is, their size will make them reckon pretty well, while the little fat on them will bring them in as twos, but these fish must be, I think, 11 inches long from the nose to the foot of the tail. If the fish are smaller than this they cannot be considered number twos. Now, when you come to number threes, if the mackerel are poor and such as I have been telling you of as having been caught in nets at their spawning time, they are all number threes according to our inspection law. Being poor they cannot be called anything but number threes, but if they are 13 inches long, like number ones, they will pack for long threes. This law has been altered in Massachusetts several times, and at one time the big ones which were large enough for threes were branded threes south, while those which were shorter than 13 inches, and yet poor, were branded threes north, but such mackerel cannot be threes if less than 10 inches long. If poor and 10 inches long, and fat but less than 11 inches long, they can be twos, and if poor and 10 inches long they may be threes, while if they are smaller than this they are classed as number fours. This is the Massachusetts inspection law, which I think is now in force.

Q. Are the inspection laws of Maine in substance like those of Massachusetts?—A. I think that they are very much the same. I may remark that some change may have taken place in these laws, in view of the fact that we tinker at and modify our laws every year.

Q. Are mackerel which are not inspected in the United States sold to any considerable extent for consumption in the United States market? Do the mackerel which come from the Canadian provinces, and which are branded here, not being repacked and inspected in the States, find a market in the United States?—A. I think that most of the mackerel which comes from Nova Scotia or other British provinces is reinspected when it arrives in the States. A good many fish dealers are appointed deputy inspectors, under the general inspection act, and when this mackerel comes in they repack it. They buy the mackerel in large barrels, and if large and fat they take these mackerel out and make of them mess-mackerel, putting them into kits and placing their own brand on them.

Q. Is there a well known distinction made among fish-dealers and consumers between what is called bay mackerel and shore mackerel?—A. O, yes.

Q. When a United States vessel comes up here and catches mackerel off British waters, are these mackerel termed bay or shore mackerel?—A. They are called bay mackerel, but those caught on our coast are called shore mackerel.

Q. Which, for a series of years, has commanded the highest price?—A. Our shore mackerel has commanded a good deal the highest price for quite a number of years; but when I first went to the Gulf of St. Lawrence, in 1835, and obtained good trips of mackerel, bay mackerel brought the most; I should think that there was then more than \$1 a barrel difference in favor of the latter.

Q. And what has been the difference between the best shore and best

bay mackerel during the past few years ?—A. The bay mackerel were very large when I first went to the bay to fish, and that was their recommendation ; they were also in good condition physically, that is, fat ; but of late years, the bay mackerel which our vessels have caught there have been very poor. The sixteen voyages I mentioned as having been made to the Gulf of St. Lawrence from Provincetown have all been failures, on account of the inferiority of the mackerel, and the small quantity that has been taken by these vessels.

Q. I notice that the collector at Port Mulgrave, David Murray, says that most of the mackerel caught about Prince Edward Island are small, and that the best and largest mackerel are taken about the Magdalen Islands ; this was in 1874.—A. The catch was biggest at the Magdalen Islands.

Q. This corresponds with your statement ?—A. Yes ; I think that better mackerel are taken around the Magdalen Islands than to the westward of them. Up to the present time we always find a vast number of small mackerel, tinkers and blinks, on the fishing grounds ; but when I first went to the gulf, in 1835, and during the three years when I was cod-fishing there, in 1824, 1825, and 1828, we depended wholly on mackerel for bait, and I never at that time saw a small mackerel ; they were all large, and this was afterward the case.

Q. How large is mackerel spawn ?—A. They are about as large as the head of a common pin.

Q. Did you ever happen to know of Canadian vessels coming into American waters to fish ?—A. Yes ; I saw a vessel in Provincetown Harbor which I was told belonged to some place in the British provinces, but I did not go to her.

Q. When was that ?—A. I could not tell. I dare not go as far as that.

Q. I have your statement made in 1873 with which I can refresh your memory. You then stated, "In the autumn of 1871 a Canadian schooner of some 70 tons anchored in this port several times in company with the American fleet. She is the only instance of a colonial fishing-vessel of which I have any knowledge here."—A. That is my statement. I had forgotten the fact of having made it. I still remember that people told me about the schooner, and I made inquiry about her.

Q. You and Mr. Gifford, the collector, made a joint statement in 1873 ?—A. I remember it, and I have no doubt but what there was a schooner there belonging to the provinces.

Q. We find that mackerel are in abundance at a given place one year and then very scarce there the next year ; I want to know whether you attribute such appearance and disappearance to overfishing or to the migratory habits of the fish.—A. O, fish do not always come to the same place every year. Some years you may get them plentifully in a locality, while they may not come there another year. It is impossible for me to know the cause of their not coming to any place, but I sometimes attribute it to the fact that their bait may have taken a different course. The mackerel come to Provincetown every year at spawning time, but they do not want any bait then ; and the fishermen then know just where to go to catch them, though they do not know where these fish are during other parts of the year ; but when they are found a shoal, they go there for bait.

THURSDAY, *September 20, 1877.*

The Commission met.

The examination of Mr. ATTWOOD was resumed.

By Mr. Foster :

Question. Have you been engaged in the cod fishery ?—Answer. Yes.

Q. How early and how extensively was this the case ?—A. My first voyage was made when I went to sea in 1820. I then proceeded to the Labrador coast. I have been there a good many years since—I might say from year to year. In 1820 and 1821 I fished on that coast ; in 1822 I made a trip in the North Atlantic ; in 1823 I was again on the Labrador coast ; in 1824 I was in the Gulf of St. Lawrence, and I was also there in 1825 and 1828. I suppose I might go on in this manner until 1866.

Q. Have you been cod-fishing on the Newfoundland Banks ?—A. Yes ; I was during four seasons on the Grand Banks.

Q. When was this ?—A. I do not know as I could tell you that just now, but I think that I first went there in 1833.

Q. How extensively is the cod-fishing business carried on from and in the neighborhood of Provincetown ?—A. We have a fleet of vessels 48 in number this year from Provincetown on the Grand Banks, and in the Gulf of St. Lawrence we have 17 vessels, which numbers together will give the total number so employed coming from Provincetown this year.

Q. Whereabouts in the Gulf of St. Lawrence do your cod fishermen fish ?—A. Now, I am told they go to the Magdalen Islands for the purpose of procuring herring on their first coming into the bay, and afterward they go to Bank Bradley, fishing mostly there and also sometimes over toward the west shore. They go down sometimes to Bank Orphan, but they depend more particularly on Bank Bradley for their catch.

Q. Is there any cod-fishing, to your knowledge, pursued by American vessels anywhere within three miles of the shore ?—A. Not in the Gulf of St. Lawrence ; but on the coast of Labrador, of course, all the cod are taken inshore.

Q. How is that done ?—A. My first voyages were made to that coast. The vessels anchor in a harbor, and when the caplin come in the cod come in after them, and boats are sent out from the vessels to catch the cod.

Q. They are also caught there now by seining ?—A. Yes ; some seining for cod was done when I was there, but I went in vessels which caught the fish with the hook.

Q. That was north of Mount Joly ?—A. North of Mount Joly we fished early in the spring, in a few harbors, to the westward of Blanc Sablon. Every year we went there we passed through the Strait of Belleisle, and by Cape Charles, going up to what we call Grosse Water, although I do not now find that name on the chart.

Q. Excepting up there, do American vessels fish for cod anywhere within three miles of the shore, to your knowledge ?—A. No.

Q. Is fresh bait essential to the prosecution of the cod fishery, and what bait was in former years used in cod-fishing ?—A. We have been extensively engaged in cod-fishing for a good many years in Provincetown ; I suppose that this has been the case ever since it was a settled place. About 1819 or 1820, we had no vessels on the Grand Banks ; and when I first went to sea in 1820, 1822, and 1823, my first three voyages were made to the Labrador coast, because we did not then have a single vessel on the Grand Bank ; but afterward we began to send ves-

sels there. In 1852 we had 63 vessels which prosecuted the cod fishery on the Grand Bank; in 1853, we had 81 vessels; in 1854, 87 vessels, and in 1855, 83 vessels, and so it went along for years; but in 1866 we had the largest fleet of which I have any remembrance, for we then had 91 vessels in all, of which 19 were fishing with trawling lines in the Gulf of St. Lawrence, and the rest were on the Grand Banks. These vessels which went cod-fishing that year carried with them 4,098 barrels of salt clams, and brought home 93,663 quintals of fish.

By Mr. Davies:

Q. This relates to Provincetown?—A. Yes; to our town alone. That bait was sufficient to catch 93,663 quintals in 1866. We had 87 cod-fishing vessels ten years before. The year when I went on the Banks we carried and used clams altogether. Sometimes when vessels would get short of bait, or their clams would not prove very good, one vessel would help another; some would secure their cargoes before they had used all their bait, and if there was any prospect of bait getting short we would catch what birds we could, and sometimes cut bait out of the stomachs of the fish, this being a species of what we call bank clams; they are mussels of considerable size, and they made very good bait on certain grounds.

By Mr. Foster:

Q. You, then, had no fresh bait except that which was obtained on the Banks themselves?—A. No. From year to year we carried clams for bait.

Q. Is there an abundant supply of clams to be found about Massachusetts?—A. Along our New England coast there are any quantity of them. A great many are found from the State of Maine down the coast; there are a great many about Portland and Cape Cod, and on Essex County coast.

Q. Then there is an ample supply of clams on the American coast?—A. Yes; provided that our banking fleet want clams for bait another year they can get just as many as they desire.

Q. What other bait do the cod-fishers take from home; are any squid found on our coast?—A. Squid are very uncertain on our coast; say about Barnstable County, or north of Cape Cod, where I reside, some years they are quite plentiful. In the days of my boyhood, for a good many years, they were so plentiful that they ran ashore in such vast abundance that they became a perfect nuisance. It was impossible, over so large an area of flats, to bury and take care of them, and so we had to put up with the inconvenience; but when the blue fish in 1847 made their appearance on the coast the squid became scarcer and scarcer. In 1867 I spent the summer investigating our fisheries along the coast, and I remember very well that I did not see a single squid during the whole summer in or about Provincetown Harbor or Bay. About five or six years ago, however, the squid came there in great abundance, and they were as plentiful as I ever knew them to be. There were vast quantities of them on the coast; but since then they have become scarcer and scarcer until this year, when there are not many of them there. I am told that one vessel which went from our port to the Grand Banks this year obtained some ten barrels of squid on the south side of us, near Chatham, and, putting them in ice, took them to the Grand Banks; but the squid are scarce on our side.

Q. That took place on the south side of Cape Cod?—A. Yes; they catch a good many there in weirs.

Q. Are squid to be found on the Grand Banks?—A. Well, about five

or six years ago, about the time when squid were plentiful on our coast, they also became plentiful and vastly abundant on the Grand Banks. Almost anywhere there I was told vessels could heave to, come to an anchor, and catch as many squid as they had a mind to; for two or three years they carried a full quota of clam bait to these Banks as usual, but when they caught these fish in such a great abundance they hoisted up the clam bait which had cost them some \$6 or \$7 a barrel and threw it overboard. Those vessels which were light enough to bring this bait home, however, did so, and the next year they only carried one-half or two-thirds of their usual quota of clam bait.

By Mr. Thomson :

Q. When was this ?—A. I could not exactly say; I think that it was about six years ago. Then perhaps about five years ago the vessels carried about one-half of their usual quota of bait, and finding squid plentiful again, they had either to throw their other bait away or fetch it home again. The year following they went to the Banks without clams, and then there were no squid to be found. Having no bait, for the first time, to my knowledge, vessels went for bait to Newfoundland. Since that they have carried some clams to the Grand Banks; the eighteen vessels which are there with hand-lines on the Banks, carry a full quota of bait, and do not go to Newfoundland for it, and have not done so. Those vessels that carry trawls have gone to Newfoundland for bait.

By Mr. Foster :

Q. How has the catch of the hand-line fishermen compared, with regard to profit, with the results of the voyages made by the trawlers ?—

A. The catch has been better in their regard; some trawlers and some hand-liners had arrived before I came away. A larger class of vessels is used among hand-liners; the average tonnage of the hand-liners would be, I think, larger than that of the trawlers. About one-half of those that have come in are hand-liners.

Q. Have you ascertained the opinion of the owners of vessels engaged in the cod-fishery upon the Grand Banks, as to the profit accruing from and the desirability of their captains going to Newfoundland for bait ?

—A. Before coming away, I had an interview with the agent of every vessel that belongs to Provincetown; and I never heard one of them say that they wanted their vessels to go in there for bait, while a great many were opposed to it. One of them informed me he had told his captains that if they went to Newfoundland after bait, they would be no more in his employ; draughts had been drawn on him to considerable amounts, and he was wholly unwilling to allow his vessels to go there. Two of his vessels had been in at Newfoundland for bait. The most of them considered that they would discontinue the practice, owing to the cost of the bait in Newfoundland and their long detention there in procuring it. This ran away with their time, and for that reason they came short in their voyages.

Q. Do you know whether the halibut-fishery is exclusively a deep-sea fishery ?—A. It is exclusively a deep-sea fishery. I have been engaged in it for several years along our coast, and I have also fished at Cape Sable, off Seal Island, Nova Scotia, and on the Western Banks. I was on Sable Island Bank one trip, and have been a good deal on our own coast in this relation. This is a fishery which is prosecuted in the deep sea. When I fished off Seal Island, I was perhaps eight or nine miles off shore in 25 fathoms of water. I got two trips there, but vessels outside of me—I could just see their masts on a clear day—got three times as many fish as I did. They fished so much for halibut on all the banks, even

including the Grand Bank, that these fish became scarce, and then the fishermen conceived the idea of going to Greenland for them: and they did so. Within a year or two back they have been fishing for halibut away off in deep water, where previously no one thought of trying for them. I have no doubt but that they now fish for halibut in water as deep as 200 fathoms.

Q. Whereabouts?—A. Anywhere in the gullies between the chain of Banks which extends from George's to Grand Bank, on La Hève and Western Banks, &c.

Q. Is the cod-fishery, as pursued by the Americans, exclusively a deep-sea fishery?—A. Well, we will call it a deep-sea fishery; this is the case—the Labrador coast excepted, where it is prosecuted close in shore—in the Gulf of St. Lawrence, on the Grand Bank, and on all the banks between that place and Cape Cod, and away out to sea in other parts. It is true that some codfish come inshore, but they do not do so to such an extent as to enable the catching of them to be made a business of.

Q. Is there any haddock fishery pursued by Americans distinct from the cod-fishery?—A. When the fishermen go for haddock they proceed to fishing grounds where they do not expect to catch many fish but haddock, but they always like to catch cod, which are more valuable than haddock as a general thing. Haddock in the fresh state are brought in immense quantities into the Boston market. Nobody thinks much of salting haddock. They are a very cheap fish when salted, and it would hardly pay to salt them.

Q. Do they catch them anywhere within three miles of the shore, as far as you are aware?—A. They are caught up our way about Cape Cod, both inside and outside of the three-mile limit.

Q. In boats or vessels?—A. In boats. It is mostly carried on in market boats—small vessels. In 1867, as near as I could find it, about 75 vessels attended the market, and their business was almost always haddock fishing. They were almost all manned by men who were born in Ireland. A great many of them came from Galway; they had been brought up to the fisheries there, and had been accustomed to use trawls, and this was the way in which the practice of trawling with long lines was introduced on the coast of Massachusetts. They pursued the haddock fishery, and they have done a good business at it, selling them fresh.

Q. What about hake and pollock?—A. These fish are caught to some extent along our coast. They are both very cheap fish, and our people do not make voyages to any distance for them.

Q. Do you regard the use of trawls as diminishing, in the long run, the catch of fish?—A. I think that their use in any given locality will decrease the supply of fish. Along our coast between Cape Cod and Cape Ann, where trawling has been prosecuted to any great extent, it has thinned the fish off pretty well. This is in the bays near my home. The fishing is thus overdone.

Q. Sometimes I suppose that the use of trawls destroys the predaceous fishes and thus increases the number of small fish?—A. Yes.

Q. To what extent do the Americans use the coasts of the British Dominion to cure fish and dry nets, as far as you are aware?—A. I only know of one man who made arrangements to cure fish on provincial territory. He went down to the south side of Cape Breton to St. Peter's Harbor, I believe, and made arrangements to send 5 vessels to the Grand Bank, intending to have their cargoes landed there and to send them back to the Banks.

Q. He set up a fishing establishment on the shore?—A. Yes. But

his vessels were unsuccessful, and he never cured a fish there. He lost money in the venture, and having collected his traps, he came home. This is the only instance I know of, with respect to the curing of fish on Dominion territory by any person from our part of Massachusetts, interested in the fisheries.

Q. Do the cod-fishermen who go to the Banks or anywhere else, make a practice of landing to dry their fish on the rocks?—A. No; our fishermen do not.

Q. This practice has passed away?—A. I do not know of it being done by any of our American fishermen.

Q. Was that done in the earliest days of your youth?—A. Then those that went to Labrador when done fishing, washed their fish and dried them on the rocks, bringing them home in that state; this was the case during one voyage I made there, but in my other two voyages there, we brought our fish home green.

Q. Has the mackerel-fishery, say from 1870 to the present time, been a prosperous and profitable business?—A. It has not been so profitable as the cod-fishery, and it has declined somewhat. Two of the principal firms in Provincetown fit out over one-half of the mackerel-fishing vessels which go from our place; they fit out over 15, and there are 30 of them, and they are in such a position that they cannot get out of this business very well. This fishery has been very unprofitable, while our neighbors who have prosecuted the Bank-fishery have done a fair business.

Q. Which has been the better during the last few years, the mackerel-fishery pursued on the coasts of the United States, or the mackerel-fishery prosecuted in the Gulf of Saint Lawrence?—A. Our vessels have made only 16 voyages to the Gulf of Saint Lawrence for mackerel since 1870, and I think, I may safely say, that their voyages were failures. They made little or no money at it. During this period, almost all our mackerel-fishing was done on our own coast.

Q. Which would you prefer, and deem most beneficial, to have the former duties on British fish imposed at the United States custom-houses and to be excluded from fishing within the three-mile belt on the British shore, or to have free admission to the inshore-fisheries in British waters, and to have the fish caught by Canadians enter the American markets free of duty?—A. I think that it would be more profitable to us, owing to the way in which we are situated, and the manner in which we fish, to have duties levied on Canadian fish, and to be ourselves excluded from fishing in British waters, inside of the three-mile line. Our conduct certainly shows that we believe our own fisheries to be the best, because since 1873 we have had only thirteen vessels out of all our fleet go to the Gulf of Saint Lawrence. Still we pursued the Bank-fisheries. Our mackerel fleet has diminished in number, and this year we have only one vessel in the gulf. Two of our vessels went there last year, but they did not do anything. I do not know what the single vessel I mentioned has done. She has not been gone a great while.

Q. Are you aware of any place from which the mackerel fishery in British waters has been pursued profitably since 1873, and the going into effect of the Washington Treaty?—A. I do not know of any place where our people could profitably prosecute the mackerel fishery in British waters. Our people have gone to what they consider the best fishing places, and I gave the result of their voyages yesterday.

By Mr. Thomson :

Q. How then do you account for American vessels coming into British waters at all, if they lose by their voyages here?—A. I do so in this way:

when I was fishing, I sometimes went out, expecting and hoping to do something, though in a faithless kind of way; and when I was through, I would find that I had done nothing.

Q. Did you follow that plan from year to year?—A. It is not the same vessels which so follow it up. The vessel which went to the gulf this year, did so because the fish were scarce; last year two vessels went to the gulf, and I was interested in one of them.

Q. You are now, of course, speaking of your own place, Provincetown?—A. Yes; I know that Gloucester sends out more vessels, because they own a great many more there; particularly as concerns the mackerel-fishing business, than in Provincetown.

Q. Had the Gloucester vessels failed in the same way, in their trips to the gulf?—A. I suppose so. I am not now engaged in this fishery.

Q. You talk of the pains you took in collecting statistics before you came here, in Provincetown; and you conclude that your Provincetown vessels failed to make any money mackerel fishing?—A. Yes—in the gulf.

Q. But did you not take any pains to ascertain whether your Gloucester brethren were in the same predicament?—A. I intended to inquire after all the vessels, but being unwell at the time, and fully believing that some one as capable as myself would be able to give the required information respecting other places, and Gloucester in particular, I did not go there; but I collected all possible local information on the subject.

Q. Do you mean to imply that since the Treaty of Washington, the mackerel fishery has failed, and not been a money-making business, on your own coast as well as in British waters?—A. The mackerel fishery has been a failure since 1873. My object in collecting statistics with relation to the mackerel fishery was to show how many vessels were employed in it on our own coast, and how many in the Gulf of St. Lawrence, from our place, back to 1870, inclusive; this covers the ground since the Washington Treaty came into force.

Q. Did the mackerel fishers make money in our waters during the Reciprocity Treaty?—A. Well, I should not like to express an opinion on that point. I had nothing to do with it, and did not go there during the Reciprocity Treaty.

Q. And none of your statistics will enable you to tell that?—A. No.

Q. Do I understand you to say that your statistics which regard the mackerel fishing from Provincetown since 1873, imply that your people have failed to profitably prosecute the mackerel fishery?—A. Yes, in the gulf; and this fishery has not been very profitable on our coast. Our mackerel-fishing fleet has diminished in number; and I think that if they could get out of the business without loss, the fleet would be still less in number a year from now.

Q. Do you include your own mackerel fishery in that statement?—A. Yes. I do not know that any of our mackerel fishermen will make any money this year. There is no prospect, unless a good school comes in, of their making anything like fair voyages.

Q. On your own coast?—A. Yes.

Q. During the last four or five years, have not very few mackerel been caught on your coast?—A. Well, yes, and during the years before, comparatively few also. The catch, I think, was larger in 1870 than it has ever been since. If my memory serves me right, over 300,000 barrels were then packed in the State of Massachusetts, and that quantity of mackerel, nor anything near it, has never been packed in this State with one exception.

By Mr. Dana :

Q. What is the exception ?—A. This occurred in 1831, when 383,559 barrels of mackerel were inspected in the State of Massachusetts.

By Mr. Thomson :

Q. Is packing and inspection the same thing ?—A. Yes. They were chiefly the catch of our vessels. Another matter deserves remark : if mackerel imported from the British provinces fall into the hands of our inspectors, and they reinspect them, they put the American brand on them ; and such fish would be included in the number of the catch. This, I think, is an important fact.

Q. I was going to ask you whether or not these fish were branded, irrespective of the nationality of the bottoms in which they were taken ?—A. Yes. I think that the fish which are now being sent from Halifax to Boston will be inspected. We have general inspectors.

Q. Would not these fish, so inspected, appear in your returns as American-caught fish ?—A. I think that would be the case ; they would appear in the whole product of the State.

Q. Then the finest fish that would come there from British waters would be inspected and marked either number one or mess mackerel, as coming from American waters ?—A. Yes ; if they were fat and big enough.

Q. And they would appear to be American-caught when in fact they were British-caught ?—A. I do not think that any distinction would be made when mackerel are sold in large quantities ; they are sold more particularly by their quality than by their brand.

Q. It is not the brand that then sells them ?—A. The brand does not determine the quality of the fish when they first change hands. Mackerel coming from the Gulf of St. Lawrence, when 13 inches long, and fat, are put in as number ones ; and the fish caught on our own coast 13 inches long or over, are similarly branded. Mackerel that run between 13 and 14 inches in length, according to the Massachusetts inspection law, are number ones ; and mackerel which are from 16 to 17 inches long are also branded as number ones, this being the highest brand. But when a purchaser comes along, the heads of the barrels are taken out and the quality of the fish is examined without regard to the brand.

Q. But, in every case, fish that come down from British waters would appear as American-caught fish ?—A. This would be the case, I think, after they were packed.

Q. This being so, your returns would not be at all conclusive as to the quantity of the British catch which comes into your ports ?—A. I do not think that they would.

Q. Boston, I think, is your great shipping center ?—A. Yes ; it is a great shipping market.

Q. Does not the fish trade of New England center there ?—A. Yes.

Q. And it is one of the largest centers of the fish trade in the United States ?—A. Yes.

Q. Is there any larger fish-trade center anywhere ?—A. I do not know so much about New York as Boston, but I think that the latter is the greatest fish-trade center in the United States.

Q. This is one of the most important elements of the trade of Boston ?—A. It is an important element in it.

Q. What office did you hold as a commissioner under the government of Massachusetts ?—A. I was appointed a commissioner to investigate into the question relating to the artificial propagation of fish, and to find out whether such propagation was pr

commission terminated in the course of six months, and subsequently a State commission was appointed in the same connection. This was done, I think, in 1864. My appointment took place in 1856.

Q. Some, at all events, of the duties of that commission were to fill with fish rivers which had been depleted of them?—A. That is the object of these commissioners.

Q. Are they succeeding?—A. It is said that they are. When first appointed, the chairman wanted me to go to the Merrimac and Connecticut Rivers in our States and collect what information I could on the subject. I spent a month at this work and I then made my report.

Q. Are they really increasing the number of the fish?—A. I have no personal knowledge as to this being the case. I do not know so much about our inland as about our sea fisheries.

Q. Have your inland fisheries, in your judgment, no effect on your off-shore fisheries?—A. Well, they have a little effect on the latter.

Q. Do not bait-fishes come down from the rivers?—A. Some do—such as shad and alewives. They are used to some extent as bait for cod.

Q. Have not the States of Maine and Massachusetts of late years endeavored to protect, as much as possible, the shad-fishery?—A. Yes; and their artificial propagation has been attempted.

Q. Are they succeeding in this respect in the State of Massachusetts?—A. The commissioners report favorably, and say that they are making headway; but I have no personal knowledge regarding this matter.

Q. Has this commission no power over the sea fisheries along the coast?—A. No such power has been delegated to them to my knowledge. A law passed the legislature last year, I believe, instructing the commission to issue circulars to those who had pounds, weirs, traps, purse-seines, nets, and gill-nets along the coast inshore. These were required to keep a daily count of the different kinds of fish which were thus procured. These circulars were issued this year, and some were sent to me at Provincetown, where I distributed them.

Q. So that the object which the commission had in view was to prevent the destruction of fish in these traps, pounds, purse-seines, and gill-nets, &c.?—A. So much had been said about them that the commissioners wished to ascertain as nearly as possible the quantity of the different kinds of fish taken from year to year in their traps, nets, &c.

Q. So much had been said, I presume, against this mode of fishing?—A. Some were against it and some were in its favor. People are not apt to talk in favor of a different mode of fishing if it makes others successful.

Q. But there had been a good deal of talk against this way of fishing?—A. Yes.

Q. And the attention of the commission was directed to it?—A. Yes; and they desired to discover what its effect was.

Q. Have they made their report on this matter?—A. No; not to my knowledge.

Q. Have they made any report with regard to the evil effects of purse-seining?—A. No. They have not investigated this question to my knowledge.

Q. Have they done so with respect to traps?—A. Yes.

Q. In your judgment are these traps injurious to your shore fisheries?—A. I think that they are.

Q. How long have they been in operation?—A. O, for quite a number

of years to some extent; I could not exactly say how long. In a rough guess, I would say, for twenty-five or thirty years.

Q. During this time if they are really so injurious, they have had ample opportunity for doing a great deal of damage?—A. They were somewhat few in number at first, but their number has been increased.

Q. And in other words, the evil they do has been increased?—A. I think so. I will tell you what I think the evil is more particularly—those who are able to build weirs, do so, and the hook fishermen, perhaps, will not then do so well as has been the case with them previously.

Q. In your judgment, they injure the fishing?—A. I think that they do, along the coast.

Q. Has this not had the effect of making your inshore fisheries, say during the last ten years, very much worse than they were formerly?—A. Well, our inshore fisheries are not so good as they have been in some times past; but again, when you look at the fish, you will find that they have changed their course from time to time. They may be abundant in one place one year, and the year following they may not be found there.

Q. Do you wish the Commission to understand that these traps do not injure the inshore fisheries at all?—A. I think that they do injure these fisheries.

Q. Then this injurious process has been in operation for twenty-five years?—A. Yes; to some extent. There were only a few of them at first.

Q. And are your fisheries not getting worse every year, owing to this bad and destructive mode of fishing?—A. If we admit that it is a destructive mode of fishing, certainly, that would be the effect from year to year; but I may fish for a certain kind of fish this year, and next year I may do better in the same fishery, owing to the greater abundance of the fish.

Q. Do you wish the Commission to understand that a destructive mode of fishing does in reality no injury to the catch of fish?—A. I did not say so.

Q. Do you wish the Commission to understand that if a destructive mode of fishing is pursued this year, the chances are that there will be a superabundant supply of fish next year?—A. There is a possibility of this being the case.

Q. I want to deal with facts. Is it not probable that this kind of fishing will destroy the fisheries entirely?—A. I do not believe that it will do so entirely; but I think that it does injure the fisheries.

Q. But would it not destroy the fishery, as a fishery, and so far as a profitable fishing business is concerned?—A. O, I do not know about that; but I wish to be understood to say that, so far as pounds and nets are concerned, they certainly diminish the supply of fish along the shore.

Q. And if this is done from year to year the supply will become more and more diminished?—A. Well, that is a fair way of stating it, provided the fish came in from year to year in the same quantities.

Q. You have no guarantee that they will come in from year to year in greater quantities?—A. But we know that this is the case sometimes.

Q. But this would be out of the ordinary run of things?—A. Yes.

Q. And you would not attribute it to the destruction of the fish the year previous?—A. No.

Q. During the last four or five years has not the greater quantity of the mackerel caught on the American shore been taken from 5 to 6 miles,

or 10 miles, or even more than that, out from your shore?—A. I think so; I have not been fishing of late years, nor have I seen the fishermen fishing, but I have an impression that they take the mackerel with purse-seines, and that they take them off shore—10 miles off sometimes, and sometimes a great deal more.

Q. Practically, your mackerel fishery within 3 miles of the shore, for a number of years back, has not been of much value?—A. Our inshore fishery has been of very little value, so far as I know.

Q. You stated yesterday, if I understood you rightly, that you had taken some pains in watching the spawning of mackerel?—A. Yes.

Q. And that 30 days after spawning you found the little fishes?—A. Yes; they were then two inches long, more or less; and 25 days afterward again they had doubled in size.

Q. Do you think it possible that in this period the eggs would develop into young fish of the size you speak of?—A. I had no idea that this would occur so quickly; but I found that it was the case, and then I could not help believing it.

Q. You would not undertake to say positively that these little fish came from the eggs deposited some thirty days previously?—A. I think what I saw was proof positive to that effect for me. It was satisfactory to my mind. I found the eggs coming from the adult fish on a certain date, and then I saw the young fish in schools, two inches long, more or less, thirty days afterwards; they were as thick as they could be. I then said that these fish had come from those eggs, which were deposited there a month previous. I know that they did not proceed from eggs swanned the year previous. Now when I came to watch these schools 25 days afterwards, I found that the fish had doubled in size, and this was another proof of the circumstance of which I speak. I was at the time interested in this matter, not only because I expected to be appointed on the commission mentioned, but also because I wanted to investigate this question; this had been the case for years, and I put everything possible in this relation into the hands of Professor Agassiz, desiring to do what I could in the cause of science.

Q. How long ago was this?—A. It was in 1856.

Q. Have you ever observed such a phenomenon since?—A. No; but this occurs every year. These fish yearly deposit their spawn there.

Q. In what depth of water have you found this mackerel spawn?—A. In all the way from 15 to, I should think, 5 fathoms of water.

Q. The eggs were deposited on the bottom?—A. Yes. The fish go down in the day-time, when we see nothing of them. One would not know that they were there; but at night they come up. We suppose that these eggs are cast over the area of the bottom.

Q. There is only one year when you recollect of having seen this peculiarity?—A. I saw enough to convince me that this was a sample of other years. I had never before watched them so minutely.

Q. Is it not a rule known to scientists, in this regard, that fish which spawn on a particular shore, return to it from their deep-sea haunts?—A. I believe that this is a well-established fact with regard to fresh-water fish, shad, salmon, and alewives, &c.

Q. That is a fair inference to draw with regard to sea fish from the practice and habits of river-fish?—A. Well, perhaps that may be so.

Q. Then it would follow that the mackerel which spawn on your shores would return there again, and not frequent other waters?—A. That would follow if that is a fact.

Q. And as far as theory is worth anything, the weight of opinion is rather in favor of this view?—A. I think so.

Q. Suppose a school of mackerel appeared on your shore at a particular time, and that a day or two afterwards, a large school should appear on the Nova Scotian shore, or in the Gulf of St. Lawrence, then these must be different schools?—A. Yes, certainly.

Q. Are there not among mackerel not only different schools, but also different species?—A. What I understand by species is the same kind of fish.

Q. Yes; but still different species, or varieties, if you will?—A. There are a great many species which belong to the mackerel family, but they are not mackerel. We say that fish are divided into two grand departments, and then into orders, families, and genera, and lastly into species; and besides these there are varieties of fish.

Q. Are there not different varieties of mackerel?—A. Yes. The mackerel found in the Gulf of St. Lawrence are different from the mackerel on our coast. You can tell them apart.

Q. Do you say that there is any difference in the mackerel caught off the American coast, and the mackerel caught, say, off Prince Edward Island or elsewhere in the Gulf of St. Lawrence?—A. I think that these fish are of one species; but they do not seem to be the same with regard to their size and condition. The gulf mackerel are not in as good condition as ours. I have, however, known the time when the mackerel in the Gulf of St. Lawrence would sell higher by \$2 a barrel than those caught on our own coast. This was in 1835, when I went into the Gulf of St. Lawrence. When we came home our mackerel fetched the highest price, and a higher price than the mackerel caught off our own coast.

Q. Why?—A. Because they were larger, and fat. They were caught off the Magdalen Islands; but now the gulf mackerel are not as large as those which are taken on our own coast, while they are dark colored and not in so good condition physically as ours.

Q. Then they are of a different variety?—A. You may call it so.

Q. When in the Gulf of St. Lawrence did you not fish off Prince Edward Island?—A. I went there once, but while there, during a fortnight, I was cast away twice.

Q. That was in 1851?—A. That was my experience with regard to fishing in the Bight of Prince Edward Island. I considered that the part between East Point and North Cape was a dangerous place for a vessel; and therefore, I kept away from there.

Q. And this was the only experience you had with respect to the fishing off Prince Edward Island?—A. One night while reefing a foresail, I fished over there and caught half a barrel or so of mackerel; we were on our way home and not full; at the time I was within three miles or one mile of the shore, but I would have caught them if the weather had been favorable.

Q. But mackerel were there?—A. Yes; and the weather was bad.

Q. What were the size and quality of these mackerel?—A. They were large and of good quality.

Q. Some American witnesses have sworn that Prince Edward Island mackerel were trash?—A. I have seen good mackerel caught in the Gulf of St. Lawrence.

Q. Have you ever known any American fishermen to have been wrecked off Prince Edward Island since the great gale of 1851, between 1851 and 1876?—A. O, yes; the schooner Carrie P. Rich was lost near North Cape, Prince Edward Island, in 1873, in the great gale of that year. This was the year when the fishery clause of the Washington Treaty went into effect. Another of our vessels—we sent to the bay

that year—was wrecked in 1873 off the Magdalen Islands, in Pleasant Bay.

Q. I thought you said that the Magdalen Islands was a very safe place for vessels?—A. I can clear that up. Pleasant Bay is a risky place to anchor in when an easterly or northeast wind is blowing. I made it a point when there not to do so under such circumstances. It is then a sort of trap; but if the wind is coming from any other quarter, Pleasant Bay is a good harbor. With an easterly wind, however, vessels are very much exposed there. I did not mean in anything I said regarding the safety of the Magdalen Islands to convey the idea that a vessel could not be cast away there.

Q. Is the sea not very tempestuous around the Magdalen Islands?—A. The sea is tempestuous anywhere at sea when it blows.

Q. Does it not blow harder around the Magdalen Islands than it does anywhere else?—A. I do not know about that. I could not be at the same time in two places.

Q. Are gales not more frequent around these places than elsewhere?—A. I believe that the weather in the gulf generally is much the same. I have heard it said, I will acknowledge, that it is more squally down about the east end of the Magdalen Islands, and Cape North, and St. Paul's Island than at other places in the gulf.

Q. Is it not a fact that vessels leave the Magdalen Islands as early in the season as possible?—A. I know that they go there as early as possible.

Q. And do they not go away as early as possible?—A. I suppose that the reason why some vessels leave there so quickly is that they go there for ice. Our cod-fishers go there for that purpose.

Q. Do not mackerel-fishers leave these islands at an early date? Is it not a fact that they do not like to remain on this coast later than September, or the middle of September at the farthest?—A. I believe that I never staid there later than the 5th or 6th or the 10th of October.

Q. Is it not a rule for vessels to leave there in the middle of September?—A. I left there in 1851 about the 15th of September; but if I had staid there I would have probably saved my vessel.

Q. Is it not a fact that the American vessels, as a body, and the British vessels which go there to fish, get away by the middle of September at the latest?—A. I do not think the vessels remain there as late as they do at Margaree, on the Cape Breton shore.

Q. And along Prince Edward Island?—A. There are Malpeque, Cascumpeque and some other harbors about this place; and consequently some think that it is a safer fishing place, owing to that fact.

Q. And yet you think that the Magdalen Islands is the safest place?—A. I cannot help saying that now. If you were to go into Cascumpeque harbor and stay there all the time, it would be a safe place.

Q. Is it a good harbor?—A. Yes.

Q. And is it not a great benefit to those who fish around the island?—A. Malpeque is not so reliable. The water of Cascumpeque is shoal, and the entrance is not very broad; a bar is there besides, and we thought some danger was to be feared in going in there, although in clear weather, and with very smooth water, you can go in there safely enough.

Q. Is it or is it not a good harbor of refuge?—A. It is a good one for the small class of vessels.

Q. How many vessels may be there in safety?—A. I was never there but once, but I should think that along in the spring it might accom-

moderate 50 or 100 vessels. I do not know but that a whole fleet could lie there.

Q. You would be surprised to hear a man swear that there was not room enough in it for five or ten vessels?—A. O, Lord, that won't do. There were more than ten in it when I was there.

Q. Is Souris Harbor also a good one?—A. I did not think much of it when I was there. I have heard, however, that a breakwater has been built there since. I do not know how secure they have now made it.

Q. Do you recollect that 8 American vessels were lost at the Magdalen Islands so recently as in 1874?—A. No. I was not aware of that. We had no vessels there in 1874 from Provincetown.

Q. During the last 26 years—since the great American gale of 1851—has there been any American vessel lost at Prince Edward Island, the Carrie P. Rich excepted?—A. Well, I do not think or know of any other having been lost there. Several Cape Ann vessels might, however, have been lost there and I know nothing of it.

Q. But you are unaware of this having been the case?—A. I am not. I could not place any other vessel as having been lost there. Still I do not know but what a great many were lost there during this period. I know that a great many Cape Ann vessels were lost that year.

Q. What earthly reason have you for supposing that the mackerel go far from the coast at all?—A. All I want to say positively on this subject is that they do go away. When the cold weather comes on, and the water becomes so cold that they begin to grow poor, they go off to parts unknown, and we can only conjecture as to the places where they do go. One opinion is as good as another in this respect.

Q. Is there anything incredible in the theory that they only go out a few miles from the coast in deep water and stay there?—A. I have no idea that they make very long migrations.

Q. Did you not say yesterday that mackerel caught in the spring are sometimes supposed to have a muddy taste?—A. I said that in former years we used to catch large mackerel in gill-nets very early in the season, and that at no other place except Provincetown; men whose business it was to take them could not then catch any elsewhere along the coast or with hooks, and people conceived the idea that these were the remnant of the mackerel which had visited the coast the year previous, and which had remained during the winter imbedded in the mud.

Q. Did not that look very much as if the theory I mention is true?—A. It did; but since then we find that, by putting nets outside, we can catch them anywhere along the coast south of that as well as in Provincetown Harbor.

Q. Have you never heard propounded the theory that mackerel go out into water deep enough to preserve them from the action of storms, and there hibernate all winter in the mud?—A. I do not know about that. People tell me that they have seen mackerel a little north of the Gulf Stream, and we all know where that is; but I believe that they go off into deep water which is of the temperature they require, and remain there; but I do not know what they do during the winter. I only know that they go off in the fall and return in the spring.

Q. They could come back poor even if they remained a few miles off shore?—A. Certainly; but they are gone beyond our reach, and we do not know where they go for the winter.

Q. This is pure matter of conjecture, and the theory that they keep in their native waters all the year round would be just as plausible as

your theory?—A. We know where they are taken in the summer, and we see them go away.

Q. But you do not go down to the bottom to see this?—A. I am quite sure that they do so, and that the mackerel off Provincetown and the coast of Massachusetts and along other parts of our coast go south, and head off somewhere near Nantucket. We know, at all events, that they are gone, and we do not see them again until early in the following spring.

Q. I want to obtain from you a distinct answer with reference to trawling; is it not a most destructive mode of fishing?—A. The first trawling we knew of on our coast was done by an Irish crew, who came in a little schooner from Boston, and afterward our people began to practice it one after another until about the whole fishery was so carried on. They abolished hand-line fishing and began to trawl all along our bay, it being the most expeditious mode of fishing; owing to this practice fish began to be scarcer and scarcer around our shores. Even in Barnstable Bay, and at Provincetown, where I live, we used to catch fish during the winter; but now, owing to trawling, no fish are to be found there during the winter, as formerly was the case. Thus trawling has injured that fishing-ground.

Q. Then I understand you to say that this mode of fishing with trawls is injurious?—A. Yes; to the inshore fisheries.

Q. And is it not injurious to the fisheries at large, and are not the mother fish, which will not bite under ordinary circumstances, thus taken?—A. Well, I suppose that trawls do catch the mother fish—fish with as well as fish without spawn. If the mother fish were not taken, this would increase the number of fish, but we cannot fish in any possible way successfully without diminishing their number; and when we look at the fecundity of the fish and see how wonderful it is—

Q. If they were not wonderfully plenty, they would not be caught on your coast at all. Is it not a very injurious mode of fishing, in your judgment?—A. Trawls take up the fish from the ground more readily and more rapidly than is the case with hand-lines.

Q. Do you really say that, in your judgment, trawling is a proper mode of fishing? Speaking as a practical man and as one acquainted with these fisheries, would you recommend the United States Government to permit it?—A. Well, I do not say but what it would be best to abandon trawl-fishing all round the shore, and purse-seining, and go back to the hook-and-line business again. I think that this would be the better plan, on the whole.

Q. You say that squid in former years were very plentiful on your coast?—A. Yes; they were scarce and afterward plentiful again. I think that about 1872 or 1873, for two or three years, the squid were very abundant in our waters, and more plentiful than I ever knew them to be at any previous time. In 1867 I investigated into the habits more particularly of fishes, to prepare myself for the delivery of a course of lectures at the Lowell Institute; but during the whole of that season I could not see a single squid anywhere about Cape Cod.

Q. Did they ever come back again?—A. Yes; in 1873 they were more abundant than I ever knew them to be.

Q. Then did they disappear?—A. Now they have got scarce again.

Q. Have you any idea what has driven them away?—A. No, I can not form any idea.

Q. Haven't you got a fish there that they call the bluefish, which is very destructive?—A. Yes; they came north of Cape Cod in 1847 and disarranged our fisheries.

Q. And they have come every year since?—A. Yes.

Q. You never knew them before 1847?—A. Never north of Cape Cod.

Q. Don't they destroy the squid?—A. They were very destructive to the squid. They depopulated the bay of almost all the fish there was there. Not only that, but they drove the people off away from the villages and from their homes, if I may say so. I was living at Long Point, Provincetown, engaged in the mackerel fisheries, as I stated yesterday. We prosecuted that fishery and supported our families, and we lived in what was considered comfortable circumstances, according to a fisherman's idea, but in 1847 this bluefish made its appearance. I went out one night with a boy and got 1,000 mackerel, which was considered a very good night's work. Next night when I came to haul in the nets I supposed I was going to get a good haul, and to my surprise and disappointment I found two great, long, savage-looking bluefish and some dozen or so of mackerel. Now, the mackerel all went away, and that drove them off. We had 270 of a population on that point, and we moved away family after family.

Q. That was the result of the destruction of the fishery. Now they have come there every year since?—A. Yes. The squid have gradually disappeared year after year.

Q. Is it not your opinion— A. I was going on to say that the squid diminished and became less and less year after year until 1867. I did not see a single specimen for the whole summer that I investigated more particularly than any other year.

Q. And the squid have come back?—A. Yes; but they are now going away again.

Q. Have the bluefish not driven them away again?—A. I do not know about driving them away. The bluefish eat them as quick as they can get hold of them. They will probably drive them away.

Q. Is it not likely that the squid would be very plentiful?—A. They would be more so than they are if there were no bluefish; there was always squid in my boyhood.

Q. In your opinion it necessarily follows that the bluefish have driven them away?—A. They have had a great effect upon them.

Q. Haven't you stated so in some of your lectures or in addresses in the Massachusetts legislature?—A. Probably I did. It was true.

Q. You used these words—I am now quoting from some remarks I think you made in relation to this matter in the senate chamber on the 19th April, 1870. You say this:

But the great change that has taken place in our fisheries has been caused by the return of the bluefish. This species was abundant on our coast many years ago. We are informed that in a journal of the first settlement of the island of Nantucket, written by Zacheus Macy, 1792, and contained in the Massachusetts Historical Collection, he says a great pestilence attacked the Indians of that island in 1763 and 1765, and that of 35, the whole number, 222 died. In that year, he says, the bluefish disappeared, and I have no knowledge of a specimen being seen here for more than 70 years. We are informed that they are found in other localities. They are said to occur on the western coast of Africa, around the island of Madagascar, and also at Australia. If so, they are found over a wider geographical range than any other species with which I am acquainted, inhabiting the waters in both the torrid and temperate zones. After an absence of so many years they returned, as appeared in evidence before the committee, about 1832, along the shores south of Cape Cod. They did not come north of the cape so as to affect our fisheries until 1847, when they appeared in vast abundance and drove away from our bay nearly all other species. I was at that time engaged in fishing for mackerel with nets. This was the last of our catch; and every year since, when our fishermen are engaged in this fishery, they appear. I have known them to appear as early as the second day of June, but usually they do not come until a few days later—from the 5th to the 15th. When they first appeared in our bay I was living at Long Point, Provincetown, in a little village containing some 270 population, engaged in the net fishery. The bluefish affected our fishery so much that the people were obliged to leave the place. Family after family moved away, until every one left, leaving that locality, which is now a desolate, barren, and sandy waste.

I suppose you still indorse this?—A. That is what I said, and I indorse it word for word.

Q. That exists to the present day?—A. To some extent. The bluefish are not so plenty of late as in former years.

Q. Well, the bluefish is a fish that preys not merely upon the squid and other fish used for bait, but upon the mackerel also?—A. Yes; the mackerel, menhaden, and others.

Q. Talking of menhaden, that is carried on at a very considerable distance from shore at your place?—A. Yes.

Q. How far off?—A. I don't know. They say it is carried on wide off shore, but how far that means I don't know. I should think six, eight, or ten miles they might go. But this is guess-work.

Q. Menhaden is an inshore fishery, is it not?—A. They don't come on shore, as a general thing. They used to come into Provincetown and stay all summer before the bluefish appeared. Now they drive them off, and we only have them when they are passing in and out.

Q. Then, so far as menhaden is a valuable fishery, it is really a high-sea fishery at present?—A. Well, they have gone up into the mouth of the rivers—they have always been in the habit of doing that—going up where the sea-water is impregnated with fresh water, to some extent. This year they have gone into the Merrimac, at Newburyport. They have gone up the river, and a Newburyport man asked me yesterday what was the cause of so many dying there. It became a perfect nuisance at Salisbury Point, which is opposite Newburyport. Vessels after vessels have been there to get bait—Cape Ann vessels. The fish have died and drifted off along to Salisbury Point.

Q. That is something very unusual?—A. My impression is that they were driven up by the bluefish. I asked him what there was following them. He said there were bluefish off the coast. Besides that there is a horse-mackerel, which is a great enemy of the menhaden. They kept the menhaden in, and the fresh water killed them.

Q. Your own opinion was that this was an extraordinary incursion of menhaden in consequence of their being pressed by the bluefish?—A. I say they were kept up by the bluefish and horse-mackerel, and so they have been kept up in other places in the same way. I think the reason they died was because the water was fresh.

Q. All I want to know is, whether the menhaden has not become a deep-sea fishery apparently, and whether the fish are not driven away from their proper haunt by the bluefish into waters where they cannot live?—A. It has been the case this summer.

Q. Otherwise you agree that this is a deep-sea fishery?—A. That is, outside of three miles.

Q. And it has been so for some years?—A. They have been going farther off.

Q. Don't the fishermen allege that the purse seine destroys the menhaden too?—A. It is just the same as the mackerel fishery. They use these purse-seines, and have steamers, and carry on the business to an enormous extent.

Q. It is used as well for oil as for bait?—A. Yes.

Q. Have you an oil-mill?—A. No; not of that kind. Mine is coal-liver-oil.

Q. All the fish I think have very much decreased along the coast of Massachusetts of late years?—A. I do not think the fish taken, on the whole, are so plentiful as they used to be. I think there has been a diminution within eight years in almost every kind.

Q. You delivered an address, didn't you, before the senate of the

Rhode Island legislature in the January session of 1872?—A. Yes, I think so.

Q. You used this language, I think—I read from an “Abstract of an address by Capt. Nathaniel E. Atwood in opposition to legislation, before the senate committee of Rhode Island legislature; January session, 1872.”

We find upon examination that changes take place in a series of years in the great category of fishes for which we can assign no reason. In Massachusetts Bay and along the coast of our State the kinds of fish are not the same to-day that they were in the days of our boyhood. Those that were most abundant then have suffered great diminution and sometimes have totally disappeared perhaps never to return; while other varieties have perhaps after gradually diminishing more and more for a series of years, increased again and become as abundant as before. Other species have come among us that were utterly unknown in our youthful years.

Q. These statements you still indorse?—A. I think so. Yes. Changes are constantly taking place.

Q. When you fished in the Bay St. Lawrence for mackerel it was an inshore fishery, was it not?—A. The Bay St. Lawrence? Some fished inshore, I think. We fished within three miles at Magdalen Islands—the greatest part of our fishing.

Q. You don't wish us to understand that Magdalen Islands is the only place where they came within three miles?—A. No.

Q. I suppose the habits that fish exhibit there they exhibit elsewhere as well?—A. I suppose so. I think the mackerel come inshore at Prince Edward Island and down the northern part of Cape Breton Island, and in the Strait of Canso—they pass through that in migrating off the coast—that is, part of them do.

Q. At Sydney is not that an inshore fishery too?—A. I suppose they come inshore there. The other side of Scatarie, at Louisburg, I have harbored there. They had some nets, the people that belonged there, and they caught some very fine mackerel in September.

Q. Did you ever pursue the mackerel fishing at any time in your life on the American coast in boats?—A. No, not to any great extent besides netting.

Q. Did you take them within three miles?—A. Yes, some, and some farther off. We have a bay from our town to Barnstable and Plymouth, twenty-one miles broad. If we are half way across we are ten miles off. Well, we fish very close to the shore there, and we drift anywhere and everywhere that we can catch mackerel.

Q. In those days it was an inshore fishery?—A. It was so far as that netting was concerned, and then around in Provincetown Harbor.

Q. Those that were taken with hook and line were taken within three miles in those days?—A. We used to catch some also outside, and most of our mackerel-fishing in vessels we caught outside of three miles.

Q. That is of late years?—A. O! it used to be so too. Sometimes we would go very close inshore, or sometimes we would be half way off to Cape Ann; that is twenty-five miles, and we would fish away out to Mount Desert and Cashes Ledges. I have been for mackerel one summer in a small vessel, and we took where we could not see the land even on a clear day. I did see Mount Desert, that was very high, and you could see it a good way off.

Q. You are aware, of course, of the years over which the Reciprocity Treaty run?—A. I am pretty well aware of it; I know when it terminated, and I think it lasted eleven years; it terminated in 1866. I was sent as a delegate to Washington when it was abrogated.

Q. To get it renewed again?—A. No; I went there because we were a fishing place, and they thought it their duty to send a delegate there.

Q. Did the fishermen consider the Reciprocity Treaty a benefit at all?—A. Well, I do not know but they did at that time. Different views are entertained of these things.

Q. What did they say about it in Boston?—A. I do not know. We didn't participate very much in the bay fishery. All that we had under the treaty was the right to fish inshore, and then we had our markets opened to the fish from the British Provinces. We thought that the fish coming in there seemed to affect us so much that the Provincetown people thought the better thing would be to have the duty on.

Q. Is that what you went as a delegate for?—A. I do not know how many words I will have before I come to that.

Q. Didn't you go down to use your influence to get it continued?—A. No, sir. What we went down for, now that you come to that question, I will answer that. We, as fishermen in Provincetown, were more extensively engaged in the cod-fishery, and had but little to do with any three-mile line, for we had no vessels of any consequence going in the bay, and we were in favor of having just as high a tariff on codfish as we could possibly get. We learned that men had been and stated before the committee of Congress that if they could have a right to fish inshore in the Gulf of Saint Lawrence they would be willing for the codfish from the provinces to be imported free of duty. Well, we as a cod-fishing place certainly must feel it was for our interest to have a duty on them. Then they sent me to see if I could get any higher duty on codfish than we had under the Treaty of 1818.

Q. I understand you that these persons engaged in the mackerel fishery were still desirous of getting the right to fish in the bay within three miles of the land?—A. Yes.

Q. They were willing, if they could do so, that the codfish should go in free, but your people were engaged more in cod-fishing. Those were people that did not have any cod-fishing?—A. Yes.

Q. Then the mackerelers did want to go inside, and were willing, if they could do so, that the codfish from the British Provinces should come in free?—A. They asked me there about this thing before this committee—what I wanted. I said I did not go in for one set of fishermen to pay for the privileges accorded to another set.

Q. That seems to be reasonable.—A. Allow me one more word. I said to that committee that we take our towns—take Plymouth, with her 52 vessels engaged in the Bank fishery, she had not a single mackerel fisher; take Wellfleet with just about the same number of vessels, she was ready to rush into the gulf and fish within the three-mile limit and make Plymouth pay for it.

Q. From your standpoint, as a Provincetown man, you were not willing that the American mackerel-fishers should go in within the three-mile limit at the expense of your cod-fishery?—A. We did not want to do so.

Q. That is the whole story. You wanted a high duty on codfish to keep the British fish out?—A. Yes.

Q. And the result was to the general consumers that they would have to pay more for their codfish?—A. Yes, sir, more for their codfish. We are apt to be—fishermen are—swayed by selfish motives.

Q. Well, you hadn't any favorable eye on the consumers?—A. Well, we are not apt to. I don't know of anybody but wants to sell what he has for the most he can get.

Q. Were there no mackerel-fishers out of Provincetown running into the bay?—A. There might be one or two.

Q. They were in a great minority, as regards the cod-fishers, at the

time you went on the delegation?—A. In a very small minority. We were mostly cod-fishers.

Q. Now, during the Reciprocity Treaty?—A. I was going to say one word. In 1866, that was when the Reciprocity Treaty was abrogated, and that was the very year we had the biggest fleet of cod-fishing vessels that we ever had. So that our mackerel fleet was comparatively small.

Q. How many had you mackerel fishing in the bay?—A. I don't know. I could tell you, probably, if I was home.

Q. You knew you were going to be a witness?—A. Yes; but I did know what you were going to ask me.

Q. Why did you take pains to show that in '66 you had ninety-one vessels in the cod fishery, and keep us in the dark as to how many mackerellers you had?—A. I didn't know but they would ask me something about the codfish, as it was an old cod-fishing town.

Q. But didn't it strike you that they might put a number of questions about the mackerel, too?—A. I supposed I should take my own local statistics from '70 down to the present time, and let the Cape Ann folks answer questions as to their own fisheries. We didn't have much to do with it. It is a secondary thing with us, fishing for mackerel in the bay.

Q. Then, at that time it is obvious, is it not, that those who were practically engaged in the mackerel fishery—you yourself were not one of those engaged or having any personal interest—but those who were personally interested in it were willing at all hazards and were desirous of getting the liberty of fishing within three miles?—A. O, I think it was desirable to a certain portion of the mackerel fishers. Don't you see, if the mackerel fisherman could fish inshore it was an advantage to him, and if the cod-fishermen had to pay for it that was nothing to him. We are made of such material.

Q. The mackerelmen are of the opinion that it is a great advantage?—A. I didn't say a "great advantage." They would like to fish inshore.

Q. Didn't they think it was a great advantage?—A. I do not know. We didn't have anything much to do with them. I think those that went before the Committee of Congress thought it was a great advantage; but I don't know.

Q. Didn't they put it themselves that they couldn't successfully carry on the fishery in the Gulf of St. Lawrence, the mackerel fishery, unless they had that right?—A. I do not know what they did.

Q. You were there before the committee?—A. I was. At the same time, I am here before the Commission; but when they were before the committee, I was not there.

Q. Didn't you know what they stated?—A. No. I have heard, by the way, that they said that.

Q. You have heard that they said they could not prosecute it successfully?—A. I heard by the way it was so.

Q. You heard they said that they could not prosecute it successfully?—A. I heard that they said they would be willing to have the codfish in free.

Q. Didn't they say they couldn't carry on the mackerel fishery successfully?—A. No, sir; not to my knowledge.

Q. You did not hear that said at all?—A. No.

Q. They never put that forward?—A. Never to my knowledge.

Q. You never heard anything of that kind?—A. No, sir.

Q. Did they really think it was any great practical use at all?—A. I suppose they thought it was of use.

Q. Did they think it was much use?—A. I could not say for that.

One other thing I will say. It was asked of me by that committee. Mr. Morrill, of Vermont, inquired, "Would your people be satisfied if they would allow you to fish where you have a mind to and have a license?" I said that would depend a great deal upon the cost of the license. "Well," he said, "fifty cents a ton." I said I believed they would be satisfied to pay fifty cents a ton for a license to fish. On a vessel of 70 or 80 tons that would not amount to a great deal. Well, he did not tell me such would be brought about, but it finally was, and our vessels went down and paid fifty cents. But that charge was increased in after years, and it got so big it seemed to take too much money.

Q. Then they trespassed?—A. I suppose they trespassed after that.

Q. Well, these mackerel people went down to induce the legislature to continue the Reciprocity Treaty. You didn't want that, but you wanted a duty on codfish?—A. Yes; I own up to that. I gave my reasons before that committee.

By Mr. Whiteway:

Q. I think you said you were engaged in fishing on the Labrador. How many years were you there?—A. I was there in 1820, 1821, 1823. That was all that I was in Labrador really fishing. I went in 1849 and '50 down there. I went in '49 and took three gentlemen with me in pursuit of objects of natural history, and I manufactured cod-liver oil.

Q. I think you said you went down in a schooner, that the schooner went into harbor, and the small boats fished outside close to the shore?—A. Yes; during the caplin season they made something like four or five trips a day. When I first went down there I was a small boy 12 years old. I went as cook and cooked for ten men. We arrived in the harbor before the caplin. We lay in Wood Harbor, and before the caplin came to our place, we sent down southward along the coast and got what caplin we could before they reached us. After the caplin reached us we could catch them anywhere in the little coves and arms and estuaries.

Q. The caplin were then as plentiful as on the coast of Newfoundland?—A. They were immensely plentiful. I have seen them come in as thickly as you could draw fish in a seine. Then the boats went out with two men; our boats were not very large; they would carry about 500 Labrador fish. We would go out before breakfast and get a big load before breakfast-time. Those that had the best luck would get the first cut at breakfast. Then they would go again and expect to be in before dinner, then again in the afternoon, and perhaps they would go the fourth time, and so take three or four boat-loads and part of another. That is the way we carried on the fishing while the caplin lasted. They passed by us and went north. After the caplin deposited their spawn they became unfit to use.

Q. Well, that lasted about five weeks?—A. No, sir; my experience was, in all those years, the height of the caplin only lasted a little over three weeks.

Q. That was during your experience of three years?—A. Yes.

Q. Beyond the years that you have mentioned here that you were in the gulf or at the Banks you have had no practical experience?—A. I have on our own coasts. On the Grand Bank I have been four voyages. Three codfish voyages at Labrador, three codfish voyages in the Gulf of Saint Lawrence, and six mackerel voyages in the Gulf of Saint Lawrence. That is all I have been in these waters. The rest is domestic fishing off the coasts of Maine and Massachusetts.

Q. Then, I understand you made your last voyage, with the exception of your own immediate locality, in 1851?—A. I have never been in the waters east of Cape Sable since that. I lost my vessel then, and we went home and built a new vessel, in which I took part and went halibut fishing in the spring, and for mackerel in the first summer. Next season we went for halibut we were all the spring and all the summer on the Nantucket Shoals and George's, and one time we came down and fished off Seal Island ground, just westward of Seal Island, and got two trips, that we carried to New York. On that occasion we saw the tower of the light-house of Seal Island, but, if I remember right, I could not see the light when it was lit. Then I went on our own coast ever since.

Q. All I want to know is this, whether you had any practical experience or knowledge in reference to the fisheries, except in your immediate neighborhood, since 1851; that is a simple question. In other words, have you carried on fishing yourself personally since 1851, except in the immediate neighborhood of your own residence?—A. Well, never, except in those two trips to Seal Island. The rest I have been on the coast of Massachusetts. For ten years, from 1856 to 1866, I had a little smack with a well in her, and my boys made a crew, and we fished around Cape Cod and my own home. I have fished and bought fish.

Q. Then all the evidence you have been giving relative to the cod-fishery and the mackerel since 1851 has been simply what you have heard from others?—A. What I have heard and known from others.

Q. What you have heard from others; that is the case, is it not?—A. Well, when I relate anything—

Q. I certainly wish you to answer yes or no.—A. Well, we say we don't know anything unless we see it. Is that so?

Q. I should say.—A. You say so. If you mean to take it in that light you understand that I don't know that the royal mail-steamers go to England. I have never been there; but I have a desire to go, and I hope I may, for I want to see the Eastern World. But I consider I know just about as much of what I have stated about the Grand Bank fishery here as I know about the royal mail.

Q. I have no doubt you believe what you have stated?—A. I do; and I have been trying in my own humble way to do something in the interest of the fisheries in the lectures I have given from time to time. I have collected statistics, and got a good deal together that I consider perfectly reliable.

Q. You have perfect confidence in what has been told you?—A. When I see a vessel fit out with 200 hogsheads of salt and everything necessary to prosecute a cod-fishing voyage, and she comes home with fish instead of salt, I believe she has been on the Grand Banks, and I state that such a vessel went to the Grand Banks.

Q. Well, in your day, when you went to the Banks, there was nothing but salt clam bait used?—A. That is all.

Q. Well, is salt clam bait used now, or is it frozen bait?—A. Salt bait is still used.

Q. Do you know no bait except that used by your fishermen?—A. They use squid when they go into Newfoundland.

Q. Have you been informed of any other bait they use?—A. They use all the birds they can get, and Bank clams taken from the stomach of fish.

Q. Clams, birds, and squid. Is there any other bait?—A. Well, I feel confident our fishermen don't use any other. When I went to the Bank the Marblehead fishermen (that was the great fishing port then),

they told me they carried fat mackerel No. 1 for bait; but we didn't carry that. I don't think there is any mackerel now used for bait.

Q. You confidently believe there is no other bait used by your fishermen except birds, squid, and clams?—A. That is all I ever knew, and I believe there is no other.

Q. Have you heard of large quantities of frozen herring being obtained on the coast of Newfoundland brought to American ports and used in the spring?—A. Yes; I know just about as much about that as about our own vessels.

Q. Do you know this frozen herring was used?—A. Just the same as I know our vessels go to the Banks since 1851, although I didn't go myself. I know the Gloucester people buy them by tons and carry them to the Grand Bank.

Q. Why didn't you remember that these herring were used?—A. I knew they were used by the Gloucester vessels. If you had asked me generally about our vessels, I would have mentioned that. I am not ignorant that they are used to an enormous extent.

Q. These herring are taken out, I believe, in the frozen state and used fresh. They are not salted?—A. No; they are frozen. In answering you a while ago that I didn't know of any other baits being used but those you had mentioned, I referred entirely to Provincetown, because I am not ignorant of the bait they use in Gloucester. But there is enough about Provincetown to take me a considerable time to tell, and I thought I would not take in the whole. I did not prepare for it.

Q. Now you say, I think, that about six years ago you were told that there were plenty of squid upon the Banks, the Grand Banks rather?—A. Yes; somewhere about six years ago.

Q. The next year your people took less salt clams, and they found squid on the Banks?—A. Yes.

Q. The following year they took no salt clams and they found no squid there. Can you account for that?—A. I can, in the same way that I account for the increase and diminution of any kind of fish. The squid sometimes increase and sometimes decrease. Sometimes they are in the neighborhood of the Grand Bank, and don't come on for some cause.

Q. Then four years ago you say was the first year when your Grand bankers went into Newfoundland?—A. I think about that.

Q. They have continued to go there ever since?—A. They have continued and have increased.

Q. Did it ever strike you as being very strange that the squid have disappeared from the Banks at exactly the same time that the Washington Treaty came into operation?—A. No; I never thought of it. In fact, I don't know that the squid knew anything about the Washington Treaty.

Q. They happened to go at that time?—A. Other things transpired at the same time as the Washington Treaty.

Q. You don't think they came in upon the coast from the Banks in consequence of the Washington Treaty?—A. I don't think they were posted about that.

Q. Well, they have been there upon the Newfoundland coast ever since four years ago?—A. They have been, more or less, ever since. I think more this year than any previous years.

Q. And more last year than the next preceding?—A. I don't want to positively state so. I think likely.

Q. And more that year than at first?—A. I think so.

Q. As a matter of fact they have been increasing in numbers?—A. I think they have. This year there is an immense number.

Q. Did you see a paragraph in the paper that the American fleet was blocking up St. John Harbor?—A. I didn't see it.

Q. They want considerable bait?—A. Our vessels have clams and do not want anything from Newfoundland.

Q. The Grand Bank is a very short distance, I think, about 35 miles; is it not a very great convenience for them to run into Newfoundland and get this bait?—A. Well, if they didn't have to lose too much time. I know there is an inducement where a vessel is out on the Banks, exposed to the buffeting of the storms, to go into a snug harbor. I know it is very comfortable. Then again they all find things on shore that they don't carry in their vessels. They have all kinds of men in our vessels; they are not all temperate men, though some of them are very good men.

Q. Do you mean to say that the captains of all your vessels are dishonest men; that they would leave their lawful vocations and go into harbor in the way you speak of?—A. No, sir; but their auxiliaries. There are a good many things that influence them. Where you have a vessel out on the Banks, exposed to fogs and storms, it is a great rest to them to come in. They can come ashore and go around.

Q. Well, I put the question to you straightly on your oath.

Mr. DANA remarks that the last expression is uncalled for.

Mr. WHITEWAY. I put the question to you straightly. Is it not a very great advantage for these vessels to get their bait upon the coast of Newfoundland, the Grand Banks being in such close proximity?—A. I think these vessels, if they took the other mode, would do better on the whole than now. I think they have learned a lesson by which you will have less vessels in there in future than you have now.

Q. You mean that it is more advantageous for a vessel to go from the Grand Banks to the coast of the United States than to go to the coast of Newfoundland?—A. No; by no means. I mean to say that they will carry bait with them sufficient to catch their cargo without going in anywhere.

Q. You think it would be better for them to take all the bait they require?—A. Yes.

Q. To make their voyage and return?—A. Our vessels prove to have done best that have done so.

Q. That would be salted bait?—A. Salted clams. In going in they lose their time, whereas the other way they get fish all the time.

Q. Then you think the salt bait is preferable?—A. No.

Q. You think the fresh is best?—A. I think the fresh squid is best, but they lose a great deal of time going in.

Q. Notwithstanding that the fresh bait is best, you think it would be far better for them to use salt clams?—A. I think if they would use the salt bait, and stay there and fish every day that the weather permits—and it permits most every day—it would be better.

Q. But if they were fishing with fresh bait, as that is better than the salt bait, could not they make more trips during the season? They would catch fish quicker?—A. Our folks only go for one trip.

Q. Your vessels only make one trip?—A. Only one.

Q. Have you ever heard of none that go a second time?—A. I have known them going, but make a failure. The first vessel that comes back this season is laid alongside of the wharf and not sent back. I have known them go twice and make a good fair voyage on the second trip, but I have known a good many bad voyages.

Q. Have you ever known of three trips?—A. I have never known a third trip to be made since I arrived at manhood.

Q. Do you think it impossible that, with the facility of obtaining fresh bait on the coast of Newfoundland—do you think your bankers could not make three trips, considering the facility of getting the fresh bait, and the superiority of that to the salt bait?—A. The fresh is better than the salt, but I think they could not make three trips, or even two, with any degree of assurance. Those vessels that carried salt bait enough to get a full fare, and staid there and got a full fare, would be satisfied. I know a man, my own neighbor, who has two large vessels that he fitted with hand-lines, and the other he sent with trawls, depending upon going to Newfoundland for fresh bait.

Q. Don't all those vessels on the Grand Bank fish with trawls?—A. No. We have forty-eight bankers engaged in that business this year. Thirty of them are engaged in trawl-fishing, and eighteen are hand line fishing.

Q. You know that of your own knowledge?—A. I know that.

Q. Do you know it of your own knowledge?—A. I didn't watch them to see that there were no trawls, but I am just as well satisfied.

Q. Well, it is a novelty to me to hear that there is a single vessel carrying on fishing on the Grand Banks unless by trawls.—A. Such is the fact that eighteen of these vessels go without trawls. This man owning these vessels expects two large ones to come home with full fares. He expects the trawling-vessel that has been twice to Newfoundland for bait to come home with a short fare. She was in at St. Peters on the 11th August and the 27th August, and on the 27th he wrote home that he hadn't any squid yet, but hoped to have some.

Q. Do I understand you to say that when an owner sends his vessel to the Grand Bank, with the privilege of going to the coast of Newfoundland for bait, he looks forward to her coming back with a short catch?—A. With trawl?

Q. Well, that, as a matter of fact, when an owner sends his vessel to the Banks, with the privilege of calling in at Newfoundland for bait, he expects her to come back with a short catch?—A. No; I do not wish to be so understood. I wish to say that this man expects his hand line vessels to do the best.

Q. Well, then, hand-line fishing is the most productive?—A. Taking them together as a whole, from the whole effect this year and last year, it has been the best. The hand-line has proved better than the trawl on an average.

Q. Well, how is it, then, that this trawling is so generally adopted if the other is more productive?—A. If you will ask me why these 30 vessels are engaged for trawl-fishing, and why they do not altogether hook fish, I will tell you the reason. The vessel is owned by a certain man or a certain number of men. They ship a captain to go in her. Maybe he is going to run the whole voyage and hire the crew, with, at the most, one or two sharesmen or one and a half. Now, then, if he goes hand-lining, he has got to have perhaps ten dory-boats. You know what they are, and he has got to have every man capable of taking charge of that boat. When he anchors his vessel these boats go out in this, that, and every direction. But if he goes trawling, he only takes five boats. Those five boats are larger, and are capable of carrying two men. Now, if he gets five men that are qualified as skippers of those boats, able to handle them, he might put cheap green hands in the same boats. He gets a crew at a cheaper rate, and that is an inducement. The captain ships a cheaper crew.

Q. What is the difference between the wages paid to a trawling crew and a hand-line crew, in a vessel of fourteen hands?—A. There is con-

siderable difference. I don't know what they pay the men. Perhaps some of them pay by the run.

Q. I don't want "perhaps."—A. Then I will say I don't know. Because I don't know what they give their men; I never inquired.

Q. Is it not extraordinary that you will state positively that the crews of those different vessels—one is cheaper than the other—when you really don't know what wages are paid?—A. I don't know what wages are paid, but I know if you have men qualified for dories you will pay higher wages than when you can take a number of green hands. I know they take some green hands at a cheaper rate.

Q. At all events you admit that trawl-fishing is very much more productive than hook and line fishing?—A. Well, it is productive—

Q. Is it, or is it not, more productive?

Mr. DANA. Let the witness answer.

Mr. WHITEWAY. Is it more productive generally than hook and line?—A. Well, I should say yes, in some localities. But I have been talking about our vessels going to Newfoundland. I have stated, and so I believe, that it is no advantage to go there with trawls, and I have given my reasons. I have said also that on the coast of Massachusetts, when the trawl was introduced, those who used them made more successful fishing.

Q. Is the quantity of fish taken by means of the trawl greater—or, in other words, is the trawl more successful in taking fish than the hook and line?—A. I think it would be, with the same time of fishing.

Q. It is the same on the Banks, of course, as in Massachusetts Bay?—A. Well, I have stated that the schooner Emma Linwood has been there from the 11th to the 27th of August, and we do not know how much longer she is going to be there before getting bait.

Q. How do you know that?—A. I know when he was there, on the 11th, because I have got the captain's letter of the 11th. I have not got his letter of the 27th, in which he says he has not yet got bait, but I could have got it.

Q. You have taken a deep interest in this fishery question now before the Commission?—A. Well, I do not know.

Q. You went to all the owners, you say, of the vessels in Provincetown who were carrying on the fishery on the Grand Banks?—A. Yes, sir.

Q. To ascertain as to the advantage of going to the coast of Newfoundland to obtain bait?—A. Well, I don't know that I can say just that, because I knew just as much about that before going to them. I went to the owners to see whether they preferred their going in, and how they felt about all these things.

Q. When did you go?—A. The date?

Q. About what date?—A. All along August. Not every day, but several times. I went in the month of August and interviewed the owners of our vessels.

Q. Preparatory to coming here and giving evidence?—A. Yes.

Q. You saw them all?—A. Every one.

Q. Have you a list of the names of the vessels?—A. I have brought a list of the names of the vessels that can be produced.

Q. Have you a list of the names of the owners?—A. No; I have not a list of the names of the owners.

Q. Can you give it?—A. You take the names of the vessels and I will give you the names of the owners.

Q. I want a list of the owners of the vessels. Would you favor me with it?—A. I haven't it in my possession.

Q. Can you make it up from memory?—A. I could.

Q. I should like to have the names of these owners.

By Mr. Foster :

Q. Haven't I a list of the vessels and captains?—A. You haven't a list of the captains. You have a list of the vessels and their tonnage. All those that went to Newfoundland that we know of up to September 1.

By Mr. Whiteway :

Q. I simply wanted to get a list of the vessels from Provincetown. There are only, I think—how many on the Banks?—A. There are forty-eight.

By Mr. Foster :

Q. Those vessels are owned, some of them, in thirty-second parts!—A. In sixteenths and eighths.

Q. A good many men own them?—A. In the first place, here is an outfitter. He keeps a store.

By Mr. Whiteway :

Q. Confine yourself to the simple facts. These vessels you say are owned by several parties. They vary between what numbers of owners?—A. Many of those are owned in part by Boston owners.

Q. Each of those vessels is owned by a great number of parties?—A. Not all of them; some haven't many owners.

Q. Others have a great many?—A. Others quite a number.

Q. Varying between how many? Between sixteen and thirty-two?—No; I won't say that. They vary between half a dozen and sixteen, and some more than sixteen.

Q. Well, now, have you been to all those owners? You said you had been to the owners of those vessels. Have you been to all those owners?—A. No. Now I was careless when I made that statement. I should not have made that statement. I should have said the agents. There might be a hundred and fifty owners, some in Boston and some in New Orleans. If you will have the kindness to pardon me, we get accustomed to speaking of the agents as the owners.

Q. You went down to the ships' husbands?—A. Yes.

Q. Give me the names of the agents.—A. What ship shall I give you? (It is agreed, to save time, witness shall furnish a list.)

Q. Now, do I understand you to say this, that all these agents expressed themselves opposed to the Grand Bank fishing vessels going to the coast of Newfoundland for bait?—A. I do not wish to be understood to say that they all had conversation on that subject. Several of them did oppose it, and nobody, that I heard, approved of it as agents of the vessels. They appeared to think there was no advantage. They didn't all express themselves; several did. They talked to me and said we had rather our vessels did not go in.

Q. How many agents are there, in round numbers?—A. I suppose, perhaps, half as many agents as vessels.

Q. How many is that?—A. 48; half of that would be 24. That is guess-work, however. It may not be more than 23.

Q. Now, how many of these 24 agents expressed themselves as opposed to the vessels going into Newfoundland for bait?—A. I do not rightly remember the number. I cannot say.

Q. You cannot answer. Can you tell approximately? I will ask you this: Can you name one individual who expressed himself as opposed

to those Bank-fishing vessels going into Newfoundland?—A. Henry Cook; he was one.

Q. How many vessels is he agent for?—A. I think five.

Q. You don't remember the name of any other?—A. Yes, I do; Philip A. Waugh.

Q. Who else?—A. L. N. Payne.

Q. Is he here?—A. No; his brother is. When I speak of different persons as agents, I refer to those who act as such, and who gave me information. I do not know whose name may appear in the paper at the custom-house. Mr. Payne is one of a firm who are agents.

Q. Is he here?—A. No.

Q. Do you know of any other?—A. Francis Joseph.

Q. He told you the same thing?—A. Yes. He is not here.

Q. Is there any other?—A. I don't think of any others—I don't think of any others I had any long conversation with.

Q. No, but I mean any others who told you this?—A. Well, I won't state any other names.

Q. You don't remember any other names than those four out of twenty-four?—A. I don't know about the twenty-four.

Q. Well, you say twenty-three or twenty-four?—A. I don't want to confine myself to twenty-three or twenty-four, and I guess at that.

Q. Well, out of all the agents. Some have four or five vessels?—A. Some.

Q. Those are the only ones you can remember as having so expressed themselves?—A. I don't remember any others that I had conversation with about that.

Q. In your conversation with them, you being strongly impressed with the objection to these vessels going into the coast of Newfoundland for bait, did you not, in the first instance, tell them that such was the case, and impress them that such was the case?—A. I was not opposed to their going into Newfoundland for bait at all; not a bit of it.

Q. But were you strongly impressed that going into the coast of Newfoundland was disadvantageous to them?—A. I thought it was, on the whole, with their mode of fishing.

Q. And you were strongly of that opinion?—A. That was my opinion; I don't wish to deny it.

Q. You are looked upon in Provincetown as a very high authority in regard to fisheries?—A. I don't know about that.

Q. You hold a high position there in connection with questions concerning the fisheries?—A. I have had some experience in fishing, and I don't know but that they give me a fair amount of respect.

Q. You are looked upon as a high authority there as regards fisheries?—A. Well, I suppose so.

Q. What you state upon any point concerning the fisheries is almost conclusive in the minds of those to whom you are speaking?—A. Fishing from an industrial and commercial point of view is one thing, and from a natural history point of view is another thing.

Q. Has not your opinion great influence among the common people concerning the fisheries?—A. I guess I should have as much influence in those matters as almost anybody. I don't hold myself up to be more than other men. Men who own vessels and carry on fishing—I don't own vessels and don't carry on fishing—know more about the business commercially and practically than I do.

Q. What you say as regards questions concerning the fisheries is entitled to be received as the fact?—A. You have asked me a question that I could not answer—I believe I did not answer it—as to how much

owners give their crews as wages. Now, there are men coming here who are owners of vessels at Provincetown, and who know how much they give the men.

Q. I suppose you are not prepared to say that your opinion on any question connected with the fisheries is not looked upon in Provincetown with great respect?—A. I don't want to give it out to the people that I know a great deal.

Q. But as a fact you do?—A. If they accord that to me I feel they have paid a compliment.

Q. They do accord it to you, and you feel it a compliment?—A. If they accord it to me they exalt me.

Q. You are aware, from information, that a large number of American vessels fishing on the Grand Banks do go into the coast of Newfoundland to obtain bait?—A. Yes; I believe they do. I have had no personal participation in it.

Q. Did it never appear to you as singular that, if it was disadvantageous to the conduct of the fishery for them to do so, they should do so, and go on increasing in numbers?—A. I know when those vessels go away they leave with the hope of finding squid on the Banks. In the event of their not finding them they necessarily go to Newfoundland for bait. It is only a few years since they began to go there.

Q. But is it not singular that they should, in such large numbers, go there, if it is disadvantageous for them to go there?—A. They won't prosecute it very long if it is so.

Q. You say the number has been increasing and the greatest number was there last year; if it was disadvantageous, was it not singular that they should so go there?—A. Looked at in that way it would be; but I have given the reasons why they go.

Q. You have given the reasons for forming your opinion?—A. I have said that they get a cheaper crew, and hope to find bait on the Banks.

Q. You have given reasons for your opinion?—A. Yes.

Q. But the practical effect is different from your theory or opinion. Is that the case?—A. It would seem so in that respect. I have stated what I conscientiously believe to be the cause of their going to Newfoundland—a cheaper crew and hope of getting squid on the Banks.

Q. You state that as your candid belief?—A. It is my candid belief that there lies the inducement.

Q. You have stated that you knew of only one man who had refitted his vessels off the coast of the Dominion and carried on the Bank fishery from thence. You referred to a man at St. Peter's?—A. Yes, located at St. Peter's.

Q. Who made an arrangement to send five vessels to the Grand Banks? Will you name the individual?—A. Henry Cook.

Q. In what year was that?—A. In 1874, I think. I am not positive.

Q. Are you not aware of any others?—A. I know of no others who have attempted that locating to carry on the Bank fishery.

Q. Have you heard of the American who has established a place of business at St. Mary's, on the south coast of Newfoundland, to carry on the Bank fishery?—A. No; I don't know who he is.

Q. There may be a great many so established without your knowing of them?—A. There may be a great number. It is a large field.

Q. Have you ever heard of three so established at Magdalen Islands?—A. No; I don't know who they are. I know this much in regard to Magdalen Islands, that last year some persons went there and built a

little shanty and set mackerel-nets, and are now prosecuting the net-fishing there. They went last year and did not do anything, and having the fishing-gear they went this year, but I don't know what the result will be. I want to state this because they belong to my own town.

Q. Is it not singular that they should follow an unprofitable business a second year?—A. No; not in fishing.

Q. Would you do so?—A. Here is the inducement: A man goes into the fishery business, and gets apparatus to work with, which costs money, and he prosecutes the fishery, but makes a failure that year. He has all the gear left on which he spent hundreds of dollars, and only needs to spend a little to replace some articles, so he tries again and hopes for better luck. That is the way with fishermen.

Q. Would they go three, four, five, or six years if unsuccessful?—A. If they don't do anything this year they may wind up. Half a dozen went last year and have gone again this year. What the future will be with them I don't know.

Q. Is it not a fair conclusion to arrive at, that their business was profitable last year, as they have gone again this year?—A. No. I know it was not profitable last year from the quantity of fish they caught and brought in; they would hardly pay their expenses.

Q. Is it in accord with the American acuteness and keenness in business to follow up a business that is unprofitable?—A. Men are not accustomed to follow a business that is unprofitable, but a second year might be tried. These men went with good faith last year, and they said mackerel did not come. I will give you the reason why the mackerel did not come. The ice remained in the gulf last year very late, hence the water was colder than it would have been under ordinary circumstances. When the ice went away the mackerel did not come in, as was expected. The ice went away earlier this season, and men have done better.

Q. That is another result from what you have heard?—A. I heard all about that. I did not go there.

Q. Did I understand you correctly that your people had not carried on mackerel-fishing profitably since 1873; is that the case?—A. On our coasts?

Q. In the gulf?—A. They have not made any profit in fishing in the gulf for mackerel since 1873. All the fishing there has been poor.

Q. Nor on your own coasts?—A. On our own coasts it has not been a successful and lucrative business. Our fleet has been gradually diminishing.

Q. Do you consider it strange that from the commencement of the operation of the Washington Treaty the mackerel fishery should have been unsuccessful?—A. I don't think the mackerel know anything about the Washington Treaty, but those who went there years before the Washington Treaty went into effect caught 261 barrels on an average—those were three vessels which went there—and since we have had the right to fish inshore they have not averaged anywhere near as many. That statement I gave in on paper in my remarks yesterday.

By Mr. Thomson:

Q. I was speaking to you about mackerel; are you aware that in the opening of the year, as they come on the coast they are blind?—A. I know the fishermen have got the notion that they are blind, that they have scales over the eyes.

Q. Do you agree with that idea?—A. They compute it to be because they don't bite; but I don't think that is the reason they don't bite.

Q. Did you ever examine the fish?—A. I have examined the fish and seen a membrane partly over the eyes, but I did not think that was the reason why they did not bite.

Q. I only want to know whether they are blind in that manner?—A. I don't believe they are blind.

Q. Would you undertake to swear they are not blind?—A. I would not swear so, but the evidence of what I have seen convinces me that they are not blind. If you will allow me to explain: We put nets out and drift with them in the bay. A vessel may try with hook and line and may not catch any, and therefore say the mackerel are blind because of a membrane partially over their eyes. I have cast nets out, and by and by we have seen mackerel rise to the top of the water, and have not got any; but after it begins to grow dark they run right into the nets.

By Mr. Foster:

Q. Is it a gill-net?—A. Yes. It looks to me as if at first they saw the net.

By Mr. Thomson:

Q. Then you swear that the film does not blind the fish?—A. I don't think it makes them blind.

Q. It moves off in course of time?—A. It moves off some. I never noticed how much.

Q. If you have not examined them closely you would not put your opinion against the opinions of those who have examined them?—A. No. If any one has examined them closely, and I presume some have, and been convinced that such is the fact, that the membrane goes off, I would say nothing against it.

Q. In speaking of the bluefish before the senate committee of the Rhode Island legislature, at its January session in 1872, you are reported to have said:

In Provincetown Harbor, from a very early period until the horse-mackerel made its appearance, the fish called "whiting" was immensely abundant. Since the horse-mackerel has appeared they have been gradually driven out, and now a specimen is hardly ever seen. The horse-mackerel has driven out a great many kinds of fish, for it is the avowed enemy of every species it can master. These fish first appeared south of Cape Cod about the year 1832. I was thirty years old before I saw a specimen. Finally they found their way into our harbor, and completely destroyed the mackerel fishery for a time, and even now render it nearly unprofitable.

Q. Did you not make that statement?—A. I did not make any such statement. The fish called bluefish in 1764 disappeared from there after the Indians all died. We call it bluefish at Provincetown; it formerly had little or no marketable value. It is known by different local names in different places. It is called bluefish in Massachusetts and along Connecticut shore. It is known as horse mackerel on the shores of Rhode Island, and the bluefish is horse-mackerel. Instead of reporting what I said they put instead of bluefish horse mackerel. I never said horse-mackerel drove the whiting away. If you go down to Chesapeake Bay you will find they call it tailor.

Q. I am not asking you about the nature of the fish, but whether you made use of the language reported.—A. I said bluefish drove them away, and they have reported me as saying horse mackerel, because they call bluefish horse-mackerel there; it is the same fish precisely.

Q. Then the only trouble is that the reporter has put you down as saying that horse-mackerel drove the whiting away, whereas you say you said it was bluefish?—A. I said it was bluefish, and bluefish did it.

Q. If the reporter had said that bluefish had driven the whiting away, it would have been all right?—A. It would have been all right.

Q. And practically horse-mackerel is the same fish?—A. The bluefish of our place and horse mackerel of the shores of Rhode Island is the same fish precisely.

Q. You don't like horse-mackerel to be put into your mouth instead of bluefish?—A. When I say bluefish I mean *Temnodon saltata*, but they put down horse-mackerel, and I did not say that.

Q. That term is not sufficiently scientific.—A. I used the term bluefish, which is our local name; at Rhode Island they call it horse-mackerel.

Q. Did this fish, whether called horse-mackerel or bluefish, or by whatever name it is known to naturalists, drive off the whiting and be an enemy to all fish?—A. Yes; it not only drove the fish away, but it drove me off.

Q. And you are also reported to have said on the same occasion—

When I was a boy, great quantities of Spanish mackerel came into Provincetown Harbor. They afterwards began to diminish in numbers, and I have not seen a specimen now for twenty years. They went away before the bluefish came, and before a weir, trap, pound, or anything of the kind was set in New England waters. I think the great enemy of the fish of our waters is the bluefish. They are ready to eat almost every fish that they can take. We know that they drive almost everything.

A. I said all that, and I indorse it; but I want to be permitted to make an explanation, because it may be construed that I had made a misstatement. When I said Spanish mackerel I meant fully-grown mackerel, which grow two-thirds of the size of our common fully-grown mackerel, and are known to us as Spanish mackerel, but are called great-eyed chub on the coast of Connecticut. That has totally disappeared. The Spanish mackerel now in the markets of Boston and New York is not the Spanish mackerel of the days of my boyhood. It is another fish belonging to the same family.

By Mr. Foster:

Q. There was in your younger days a kind of mackerel very similar to the common mackerel, which went locally by the name of Spanish mackerel, and which looked so nearly like the common mackerel that ordinary fishermen could hardly tell them apart. That fish has disappeared to such an extent that Professor Baird would give \$20 for a specimen,—A. Yes.

Q. That is what you referred to?—A. That is the Spanish mackerel I referred to.

Q. There is another Spanish mackerel which is a very choice food-fish, and which is found to some extent on the southern New England coast, but none are taken north of Cape Cod?—A. We have caught rare specimens.

Q. The horse-mackerel you were speaking of is a species of tunny?—A. Yes.

Q. How large have you seen them?—A. Eight feet long, and I should think weighing five or six hundred weight.

Q. It is very coarse food?—A. I call it so; we don't make use of it for food as a general thing.

Q. Then you come to bluefish. What is generally spoken of in New England as bluefish, sometimes called horse-mackerel and referred to there (printed extract from Captain Alwood's speech) under the name of horse-mackerel, is a fish very fine for food when fresh?—A. It is called very good.

Q. That disappeared for a generation, for sixty years and more, from the New England shores ?—A. Yes.

Q. That is the bluefish which is now so voracious ?—A. Yes.

Q. It attacks mackerel, menhaden, and any other fish of the kind ?—A. Yes.

Q. Still it is a valuable fish when fresh ?—A. It sells pretty well.

Q. Are not menhaden, mackerel, and squid taken in large quantities in weirs and pounds on the coast of Massachusetts and different places, say south of Cape Cod ?—A. Yes ; they catch a good many mackerel in pounds about Monomoy Point and some other places. I don't know to what amount.

Q. They take menhaden in the same way ?—A. Yes.

Q. And squid in the same way ?—A. Yes.

Q. When you have spoken of the increase or decrease of fish, did you refer to the absolute quantity of fish in existence or only to the relative increase or decrease in particular localities ?—A. In particular localities ; for over this immense area I don't know.

Q. When you say the bluefish disappeared for sixty years from the Massachusetts coast, you don't mean us to understand that it had become less numerous in the world ?—A. I don't know where they went.

Q. And they came back ?—A. They came back after a long time.

Q. Generally the habits of fish are so uncertain you cannot account for their appearance in or disappearance from certain localities ; is not that the case with mackerel and squid and all those varieties of ocean fish ?—A. That is the case with all varieties of ocean fish.

Q. Take this particular speech that has been quoted from, it comes from one of Professor Baird's reports ?—A. It may be so.

Q. That was a speech you made in opposition to legislation against trawling, was it not ?—A. No ; against legislation against weirs, traps, and pounds.

Q. In opposition to legislation against them ?—A. Yes.

Q. You were arguing before that committee that it was not wise to prohibit even weirs, traps, and pounds ?—A. It originated in the diminution of fish in Buzzard's Bay, and they asked us to make a law to prohibit certain modes of fishing practiced in the waters of the Commonwealth ; and I opposed that.

Q. You were making a speech against prohibition ?—A. It was to show there was no necessity to make a law to prohibit certain modes of fishing.

Q. Mr. Thomson, when inquiring of you as to your observations of the spawn of fish and growth of the small fish from the spawn in a particular number of days, put to you finally some such question as this : But you have not observed the same phenomenon since ?—A. I have not as particularly observed it.

Q. Do you mean that the same phenomenon had not existed since, or that you had not noticed it, and not made it a subject of observation ?—A. For certain reasons I was induced to make a very critical examination.

Q. And you have made no special observation since ?—A. No.

Q. Do you think that the present knowledge possessed by man can account for the disappearance or appearance of bluefish or the disappearance and reappearance of squid ?—A. No ; it cannot.

Q. In regard to inspection, as I understood you, the difference between shore and bay mackerel is one well known to dealers in mackerel ?—A. Yes.

Q. But the bay mackerel are not branded as such, nor shore mackerel

as such?—A. No; they may stencil them; but the inspection law does not provide for any brand being put on them.

Q. Is it not the custom where fish come packed from the provinces and are afterwards inspected in Massachusetts, to get a card from the Massachusetts inspector marked "Re-inspected"?—A. I don't know whether they do or not.

Q. You were asked whether our mackerelmen did not leave Magdalen Islands as early as probably the middle of September; how late have you fished for mackerel there?—A. I think one year I staid to the very last of September. I am not sure when I passed down.

Q. You were asked about the harbor of Malpeque, the best harbor in Prince Edward Island?—A. It was the harbor of Cascumpeque.

Q. Is Cascumpeque the best?—A. It is the snugest and safest. Malpeque is a larger harbor.

Q. Is not Malpeque the best harbor?—A. It is the largest harbor, and will hold the most vessels; that is where I was cast away.

Q. The Sailing Directions for the East Coast of North America from Belle Isle to Boston, published in London by Charles Wilson, state:

Malpeque Harbor is on the eastern side of this bay, and is very superior to any other on the north coast of the island; it has 16 feet on the bar at low water, and 18 or 19 at high water, ordinary springs, with space and depth enough for any description of vessel.

The bar of Malpeque runs off from Fishery or Bilhook Id., E. by S., $2\frac{1}{2}$ m.; it then runs to the southward, so as to join the shore to the eastward of Cape Aylesbury. This bar is exceedingly dangerous in bad weather, the bottom being sandstone; then all signs of a channel are obliterated by heavy breakers. The northern part of this bar, to the distance of $1\frac{1}{2}$ m. to the eastward of Bilhook Id., is very shallow, in some places only 4 feet at L. W.

Vessels may anchor outside the bar, in 7 to 5 fms., to wait for a pilot, and all strangers should endeavor to take one, and not attempt to take the bar in blowing weather.

A. That is where I was cast away. Our vessel was wrecked and two others.

Q. Is that what passed then for the best harbor?—A. Cascumpeque is the best and safest harbor.

By Mr. Davies:

Q. When were you at Cascumpeque?—A. I was at Cascumpeque in 1838.

By Mr. Foster:

Q. The Sailing Directions state in regard to Cascumpeque Harbor:

Cascumpeque Harbor.—The entrance to this harbor is N. N. W. $\frac{1}{2}$ W., 20 miles from the principal entrance to Malpeque, and S. W. $\frac{1}{2}$ W., 5 miles from Cape Kildare.

This harbor was formerly the most convenient port in the island for loading timber, and there was a very large quantity shipped; there being at that time 18 feet water. At present not more than 11 feet can be calculated upon at H. W., spring-tides; but strong N. E. winds will sometimes raise the water a foot higher. The tides are very irregular at certain seasons.

A stranger bound to this port must always take a pilot; in fine weather you may anchor outside, in 5 or 6 fathoms, in bottom sand. In easterly gales the bar is covered by a line of breakers.

The channel, from one bar to the other, and between sands only covered by a few feet, is 100 fathoms wide, with anchorage in $2\frac{1}{2}$ and $3\frac{1}{2}$ fathoms; the best berth is just outside the entrance, where the sands dry on each side. When inside the harbor the vessels generally load at a wharf.

Q. Those are the two best harbors on the north side of the island?—A. Yes; there are several other smaller harbors like New London and Tracadie.

Q. So far as you have known, have there been more shipwrecks at Prince Edward Island, or at Magdalen Islands?—A. Well, I think most of our

fishing vessels, since I have known the gulf, have been lost at Prince Edward Island. There were several lost in 1873 at the Magdalen Islands.

Q. You were asked as to the efforts made by the different classes of fishermen in New England in regard to obtaining the Reciprocity Treaty and petitioning for the remission of the duty on fish. Do you happen to know the ground taken by the fishermen of Massachusetts with regard to the Washington Treaty some years after?—A. No; I don't know.

Q. The general ground you took, when you went as a delegate, on the question of the Reciprocity Treaty was, that you were not willing to have the cod-fishermen pay so much for so little good to the mackerelers?—A. We were largely cod-fishermen, and we did not want to pay for the mackerelmen fishing inshore; it seemed like paying another man's debts.

Q. Are there any mackerel which go from the provinces to Provincetown, which would be reinspected there?—A. I never knew but one cargo brought there, which was about four years ago.

Q. With regard to the comparative profitableness of a codfishing voyage with hand-lines, and one with trawls to the Banks, do you adhere to the opinion that the more profitable voyages on the average are those made with the hook and line?—A. I think they have done the best of late. I think that taking the tonnage of the hand-line fishermen, they will bring in more fish than the tonnage of the trawl-fishermen.

By Mr. Whiteway :

Q. In your speech made before the senate, before the Rhode Island senate committee in 1870, you said, when speaking of squid, "It seems to be nearly exterminated in the waters north of Cape Cod, only a few being seen." Do you say that is the case now?—A. That was the case then, in 1870.

Q. Is it the case now?—A. Well, then they increased two or three years and are now diminishing again.

Q. It is the case now?—A. They are scarce now. I have stated here, in the course of my remarks, that in 1867 I never saw one squid. What does it say there?

Q. You said, "It seems to be nearly exterminated in the waters north of Cape Cod, only a few being seen."—A. That does not say that they had all gone. In some years there were nearly none.

Q. Is that the case as regards squid at the present time?—A. No. There are some squid there now. Squid are not very plentiful, they are scarce comparatively.

Q. Are they as scarce as they were in 1870?—A. No; I don't think they are quite.

Q. Do you say they are not?—A. I think not; I think there are more this summer than in 1870.

Q. They are still scarce?—A. Still scarce.

By Mr. Davies :

Q. With regard to your opinion that there were more shipwrecks of American vessels at Prince Edward Island than at Magdalen Islands I will repeat a question which was put to you by Mr. Thomson. You were asked whether you ever knew any American fishing vessels shipwrecked on Prince Edward Island except one, and you said you did not know any American fishing-vessels being shipwrecked there since 1851

except the Carrie P. Rich. Do you say that now?—A. I did not mean to be so understood. I meant Provincetown vessels.

Q. In answer to Mr. Thomson's question as to whether you know of any American vessel having been wrecked on the shores of Prince Edward Island since 1851, except the Carrie P. Rich, you said no.—A. I don't know of any.

Q. Have you heard of any? If so, give me the names.—A. I don't remember; I don't know the name of any.

Q. When you said, in answer to Mr. Foster, that you believed more American vessels were shipwrecked on Prince Edward Island than at Magdalen Islands, and you don't know of any American vessels except one having been wrecked at Prince Edward Island, how do you explain your statement?—A. I suppose he went back indefinitely. In 1851 a large number were lost at Prince Edward Island, and I took that into account.

Q. You wish to embrace what we call the Yankee storm?—A. Yes.

Q. Are not the Magdalen Islands more dangerous, and don't more shipwrecks take place there than at any other place in the Gulf of St. Lawrence?—A. I don't think so for mackerel-fishing vessels. Taking other vessels into account, I don't know.

Q. You don't know?—A. I don't know; I have kept no record.

Q. You don't know from your own knowledge or from hearsay?—A. No; I have only stated, and I state it now, that I fished at Magdalen Islands because I thought it was a safe place, but I took care to keep out in Pleasant Bay.

Q. In stating that Magdalen Islands are not exceedingly dangerous places, you wish to exclude Pleasant Bay?—A. I consider it a dangerous place for a small vessel.

No. 6.

BARZILLAI KEMP, master-mariner and fisherman, Wellfleet, Mass., called on behalf of the Government of the United States, sworn and examined.

By Mr. Foster :

Q. How old are you?—A. Fifty-nine years.

Q. What is the first year you came to the Gulf of Saint Lawrence as a fisherman?—A. 1845.

Q. In what schooner?—A. The Gamaliel.

Q. In what capacity?—A. As one of the sharesmen.

Q. Do you remember the captain's name?—A. James H. Gorham.

Q. How many mackerel did you catch?—A. We caught 170 barrels.

Q. Where did you catch them?—A. Those mackerel we caught all on Bank Bradley.

Q. When did you come again?—A. In 1846.

Q. As captain?—A. As master of the schooner Enchantress.

Q. How many did you catch?—A. 300 barrels.

Q. Where did you take them?—A. At Bradley.

Q. Any elsewhere?—A. No. We went right to Bradley.

Q. In 1847 in what vessel were you?—A. In schooner Franconia.

Q. As master?—A. Yes.

Q. What did you do?—A. We made two trips that season.

Q. Getting how many?—A. 630 barrels.

Q. Where did you take them?—A. Mostly on Bradley; some in different parts of the bay. We were cruising all around to the nor'ard and Magdalen Islands.

Q. How many did you take on the first trip and how many on the second?—A. Three hundred and forty barrels on the first trip and 290 on the second.

Q. In 1848 what did you do?—A. I was in the same vessel and made one trip.

Q. How many barrels did you get?—A. Three hundred barrels.

Q. Where?—A. Off North Cape 10 or 15 miles and from there to Bradley. Sometimes we would go toward the Magdalen Islands.

Q. Did you catch any of them within 3 miles of the shore?—A. Not any that year.

Q. In 1849 what were you doing?—A. I was on our shores.

Q. You were on the American shores catching mackerel?—A. Yes.

Q. How many did you catch?—A. Five hundred barrels that season. I went early south on the coast of Maine and back to the Georges.

Q. How many trips did you make?—A. We made short trips; I don't know how many.

Q. In 1850 what were you doing?—A. I made one trip in the bay.

Q. How many did you catch?—A. Two hundred and fifty barrels.

Q. Were you still in the same vessel?—A. Yes.

Q. Were did you catch them?—A. At the Magdalen Islands.

Q. Was any part of them taken inshore, except at Magdalen Islands?—A. No.

Q. In 1851 what were you doing?—A. I went two trips.

Q. How many did you get?—A. Three hundred and seventy barrels.

Q. Was that the result of both trips?—A. Yes.

Q. Where did you get them?—A. We got them all over the bay, most off Bonaventure.

Q. Was any part taken within 3 miles of the shore?—A. I don't recollect any.

Q. In 1852 what were you doing?—A. I went one trip.

Q. To the gulf?—A. Yes; we got 175 barrels.

Q. Where were they caught?—A. On the west shore and about the island.

Q. Was any part of them taken within 3 miles of the shore?—A. Yes; I should judge I might get one eighth of them there.

Q. In 1853 what were you doing?—A. I was on our coast.

Q. You made short trips?—A. Yes; and got 400 barrels during the season.

Q. In 1854 what were you doing?—A. I went two trips in the Sun beam into the gulf.

Q. How many barrels did you take?—A. 650 barrels.

Q. Whereabouts did you take them?—A. I caught them on Bradley and at the Magdalen Islands mostly.

Q. Did you take any part of them within three miles of the shore except at the Magdalen Islands?—A. I think I caught some about Prince Edward Island.

Q. Can you tell what proportion?—A. I don't think I caught over one-eighth; I could not tell exactly.

Q. In 1855 how many trips did you make?—A. One trip in the gulf.

Q. How many did you take?—A. 275 barrels. I caught them on the west shore—most of them on the west shore.

Q. Did you take any portion of them within three miles of the shore?—A. I should judge perhaps fifty barrels.

Q. In 1856 what were you doing?—A. I went one trip in the gulf.

Q. How many did you take?—A. 274 barrels.

Q. Where were they taken?—A. On Bradley and off Bonaventure.

Q. The British counsel say you are reading your answers. Will you explain what measures you took to refresh your memory, and ascertain what trips you made, and what catches of mackerel you took.—A. I had my old account-books and bills filed away in my garret. I went up, got them down, and overhauled them, and then I went to the inspectors and got from their books where they landed. I made a memorandum in this book.

FRIDAY, *September 21.*

The Conference met.

The examination of Mr. BARZILLAI KEMP was continued.

By Mr. Foster :

Question. At the adjournment yesterday you were giving a rapid statement of your mackerel trips to the Gulf of St. Lawrence during successive years, and I think the last year you stated was 1856?—Answer. Yes.

Q. In 1857 what did you do?—A. I made two trips in the gulf.

Q. Go right on with your statement.—A. We caught them on Bradley and at the Magdalen Islands.

Q. Where did you catch the first and where the second trip?—A. The first trip on Bradley and the second at the Magdalen Islands.

Q. How many barrels did you take each trip and how many in all?—A. Two hundred and seventy-five barrels each trip.

Q. You were still on the same schooner?—A. Yes; the Sunbeam.

Q. In 1858 what were you doing?—A. I was on the schooner Watchman and took 38 barrels.

Q. Where did you take them?—A. At Magdalen Islands.

Q. How long were you in getting them?—A. I was six weeks in the bay.

Q. What did you do the rest of the year?—A. I went on our coast. It was a very hard year; it was a bad year for fishing everywhere.

Q. What result did you have after you left the bay and went on our coast?—A. Seventy-five barrels.

Q. In the course of the season?—A. After the trip to the bay.

Q. All you succeeded in getting in 1858 were 38 barrels in the gulf and 75 on the United States coast for the whole season?—A. Yes.

Q. In 1859?—A. I made two trips in the schooner John A. Swett. I was not master of that vessel.

Q. How many barrels did you take each trip?—A. One hundred and seventy barrels each trip. She was a small vessel.

Q. What tonnage?—A. A schooner of some 64 tons, old measurement.

Q. Where were the trips made?—A. The first trip was caught on Bradley and the next at Magdalen Islands.

Q. In 1860 what did you do?—A. I was in the schooner Gamaliel; I was master. We got 40 barrels.

Q. Where did you get them?—A. I caught them at Magdalen Islands.

Q. How long did you take to get them?—A. I have made a mistake; I caught them on Bradley, not at Magdalen Islands. I was in the bay five or six weeks, and went out.

Q. Where else did you try for mackerel?—A. I went on our coast. I got, as far as my memory serves me, 700 barrels after I went home.

Q. After you left the bay you made a number of short trips on our coast?—A. Yes.

Q. They aggregated 700 barrels?—A. As nigh as I can judge.

- Q. In 1861 what vessel were you in?—A. Ruth L. Attwood.
- Q. Where were you?—A. On our coast.
- Q. What quantity did you get there?—A. We caught about 500 barrels, in short trips.
- Q. Where were they taken?—A. Mostly on the coast of Maine; from Mount Desert up.
- Q. In 1862 what were you doing?—A. I was in the gulf one trip.
- Q. In the same schooner?—A. Yes.
- Q. With what result?—A. We caught 300 barrels.
- Q. Where were they taken?—A. At the Magdalen Islands.
- Q. In 1863?—A. I made two trips in the bay.
- Q. How many did you get?—A. Eight hundred and seventy-five barrels.
- Q. How many were taken on the first trip and where?—A. I caught the first trip mostly on Bradley and at Magdalen Islands.
- Q. How many?—A. I think 400 barrels.
- Q. The same vessel?—A. Yes.
- Q. The second trip, how many did you take and where?—A. 475 barrels, at Magdalen Islands.
- Q. How late did you remain at Magdalen Islands that year?—A. I was there as late as 10th October.
- Q. Fishing successfully?—A. Yes.
- Q. Where did you go in 1864?—A. I made two trips in the bay.
- Q. How many barrels did you get?—A. 750 barrels.
- Q. How many did you get the first trip and where?—A. 450 barrels on the first trip. They were caught on Bradley. I shipped them home.
- Q. How did you ship them home?—A. I shipped them home by schooner Maria Theresa from Harbor-au-Bouche.
- Q. Where is that?—A. Northward of the Gut of Canso.
- Q. How many barrels did you send off?—A. 450 barrels.
- Q. What did they cost you to send from whatever port you shipped them?—A. 85 cents currency a barrel.
- Q. Did you name the port where you transshipped?—A. I shipped them to Boston from Port Mulgrave.
- Q. The second trip was taken where?—A. At Magdalen Islands; what we call the Magdalens is sometimes away off to the nor'ard, out of sight of shore, and sometimes inshore.
- Q. How late did you fish that year at the Magdalens?—A. I was there till about 15th October.
- Q. Did you find good fishing?—A. Good fishing.
- Q. In 1865 what were you doing?—A. I made one trip.
- Q. How many barrels did you get and where?—A. 450 barrels; I caught them to the nor'ard of the Magdalens.
- Q. In 1866?—A. I went one trip; we caught 123 barrels.
- Q. Where were they taken?—A. I was all about the bay.
- Q. Give the name of the schooner you were in that year?—A. Ruth L. Attwood.
- Q. Had you any license that year?—A. Yes; I bought a license.
- Q. What did you pay for it?—A. 50 cents a ton.
- Q. What was the tonnage of the vessel?—A. 109 tons.
- Q. In 1867 what were you doing?—A. I was in the bay one trip.
- Q. How many barrels did you get?—A. 222 barrels.
- Q. Did you have a license in 1867?—A. I did not require any. They were caught at Magdalen Islands.
- Q. In 1868 what were you doing?—A. I went one trip to the bay. We got 112 barrels.

Q. Did you happen to have a license in 1868?—A. Yes.

Q. Where did you catch the 112 barrels?—A. I caught them all over the gulf; probably I got 20 or 30 barrels inshore off Miscou.

Q. What other fishing did you do in 1868?—A. I did not do any other.

Q. In 1869 what were you doing?—A. I made one trip in the bay.

Q. Where was that?—A. I caught them on Bank Orphan.

Q. How many?—A. One hundred and twenty barrels.

Q. Did you have a license in 1869?—A. No.

Q. Since then, what have you been doing; fishing yourself?—A. No; I have not been fishing since. I thought that it was about time to wind up.

Q. Have you been interested since in mackerel vessels?—A. Yes.

Q. How many mackerel vessels are there this year from the town where you reside, Wellfleet?—A. I think 52.

Q. I have carried you down through your own experiences as a fisherman. I want now to take the vessels engaged in mackereling in which you were interested. Were you interested in any vessels in 1870?—A. Yes.

Q. Where were they fishing?—A. They were fishing on our coast, most of them.

Q. In 1871 were you interested in any?—A. Yes.

Q. And again in 1872?—A. Yes.

Q. Were the vessels in which you were interested in the bay that year?—A. I don't recollect. I could not say for that year.

Q. You have not examined as to where the vessels in which you were interested were fishing in 1870, 1871, and 1872?—A. No.

Q. Were you interested in any vessels in 1873?—A. Yes.

Q. Was that the year of the gale?—A. I think it was.

Q. What vessels were you interested in then?—A. I was interested in three.

Q. What were they?—A. H. W. Pierce, John Somes, E. H. Rich.

Q. What became of them?—A. The E. H. Rich was cast away in Pleasant Bay, Magdalen Islands. The other two were also there. One went ashore, and the other ran upon the Banks, but we got her off with very little expense. The E. H. Rich was lost about altogether.

Q. What did those other two vessels do; how much did they take?—A. The H. W. Pierce had 240 barrels, I think. The John Somes had about 100 barrels; she had not done much.

Q. Since 1873 have you been interested in mackerel-vessels?—A. Yes.

Q. Where have they been fishing?—A. On our coast.

Q. Take the present year, 1877, what mackerel-vessels are you interested in?—A. I am interested in six.

Q. What are they doing?—A. Fishing on our coast.

Q. In what way?—A. Seining.

Q. What mackerel-vessels are there in the gulf this year from the town of Wellfleet out of 52 mackerelers?—A. None. We had one called Unis P. Newman; we had a report that she had left Canso with 70 barrels.

Q. And gone where?—A. On our coast.

Q. In 1876 how many mackerel-vessels had you in the gulf from Wellfleet?—A. One.

Q. What did she get?—A. About forty barrels, I think. I was not concerned in those vessels.

Q. From information you received you think she got forty barrels last year?—A. Yes.

Q. In 1875, how many?—A. Only the same vessel.

Q. How many barrels did she get?—A. One hundred and forty barrels.

Q. In 1874, after the gale, were there any Wellfleet mackerel-vessels in the bay?—A. No, not that I can recollect.

Q. Now I should like to inquire whether there is, or ever was, from the town of Wellfleet, such a mackerel-vessel as R. A. Kingsbury, Captain W. Mulock?—A. I never knew any such vessel or captain.

Q. Was there ever such a captain as W. Mulock in that town?—A. Not that I remember.

Q. You don't know such a vessel or such a captain at Wellfleet?—A. I do not.

Q. Which would you prefer—that the former duty of \$2 per barrel should be levied on British mackerel and you be excluded from the three miles limits, or you be allowed to fish where you will and have British fish come in duty free?—A. I should prefer the \$2 duty.

Q. And what is the opinion of others engaged in the business, so far as you know?—A. I think that would be every man's mind in my place, because we suppose our fish would fetch \$2 more per barrel.

Q. Has the supply of mackerel on the American coast for the last few years been good or poor?—A. Very good last year.

Q. How is it this year?—A. This year, so far as I have learned, it is not so good; fish are pretty scarce.

By Mr. Weatherbe :

Q. The list you prepared you say you got from your account-books?—A. Yes.

Q. And from other sources?—A. Yes; and from other sources.

Q. What were the other sources?—A. From 1863 to 1869 I got from the inspectors.

Q. From 1852 to 1863 the information you gave in evidence was from your own account-books?—A. From my own books and bills, as high as I could judge.

Q. Why did you not follow your own books right down?—A. I got tired of looking over my own bills and I went right down to the inspector.

Q. What did you get from him?—A. He gave me an account from his books.

Q. What account could he give you? I want to ascertain what you have given from your books and what from memory; you gave the years, number of trips names of vessels, quantity caught, and places where caught from the book?—A. Yes.

Q. That is what you got from the book?—A. In my other vessels I packed with different inspectors.

Q. Am I correct in stating that you got from the book the year, number of trips, names of vessels, quantities caught, and places where caught?—A. Yes; as high as I could judge.

Q. Did you get that from the book?—A. I took it from the book.

Q. Did you take all these things from this book?—A. I did not take them all from the book.

Q. The names of the vessels you got from the book?—A. Yes.

Q. The whole of them?—A. The whole of the vessels I have stated.

Q. You have given all the quantities you caught from the book?—A. Yes.

Q. You obtained the information from 1852 to 1863 from your own books and bills?—A. Yes.

Q. From 1863 to 1869 the information you obtained from other sources?—A. Yes.

Q. Did you obtain from your books, or from any other sources or documents, the places where you caught the fish?—A. No; I took that as near as I could recollect. I could recollect very near.

Q. You did not obtain any of that information from any book or memoranda?—A. No.

Q. You got that purely from your memory; but before giving it you wrote it down in this book, so that it might be correct?—A. I followed up from one trip to another.

Q. You wrote it down in the book?—A. I wrote it down in the book.

Q. The place where you caught the fish; for instance, you wrote down, with regard to the schooner Franconia, that she got 630 barrels; you got that from what source?—A. I got it from my old books.

Q. What kind of books?—A. My old account-books.

Q. You kept an account?—A. I kept an account.

Q. What kind of an account?—A. It was like this: "I have caught so many mackerel this trip, and I caught them on Bradley." This was entered in my books.

Q. Was it a day-book or ledger?—A. A kind of day-book—perhaps ledger.

Q. You entered the number of barrels you caught in your book, you say, on those occasions, when you went home?—A. When I went home I had the number of barrels entered in my book.

Q. How did you enter it when you went home?—A. I had a book on board the vessel.

Q. You entered it on board the vessel?—A. Perhaps I might enter it on board of the vessel, and perhaps when I went home.

Q. What was your object in entering it?—A. I wanted to keep a run of where we got the fish the different years.

Q. You have told me you did not get the places where you caught the fish from any book or any other source than your memory. I am not asking you with regard to where you caught the fish, but in regard to the number of barrels you caught.—A. The number of barrels I caught I took from my books of account.

Q. You have down that the schooner Franconia caught 630 barrels of mackerel in 1847; where did you get that number, 630?—A. I got that from my old account-books, and from my bills where I packed.

Q. Where did you get that number, 630?—A. I took it, as I have stated, from my old account-books which I had filed away in such a year.

Q. The numbers were taken not from any bills, but from old books?—A. Some from books and some from bills.

Q. Then you cannot recollect whether they were taken from books or bills?—A. I don't recollect exactly that one particular.

Q. With regard to the places where the greatest number of fish were caught, how could you tell that from bills; do you mean bills you made out where you sold them?—A. Where I landed them.

Q. What do you mean by bills?—A. When we have a bill made out I consider it a bill.

Q. A bill of items?—A. Yes.

Q. Then you got the number of barrels from the bills of parcels?—A. I don't think I recollect exactly.

Q. I am not asking you to recollect any particular item, but to explain the matter to the Commission, for you have only mentioned two sources

down to 1862—books and bills. You say you mean by bills bills of parcels; is that correct?—A. Well, it is as I stated. I referred to my old bills and books that I took these accounts from.

Q. You understand a bill of items and a bill of parcels to mean the same thing?—A. I am not certain.

Q. Where did you catch the fish you took in 1848?—A. I caught them on Bradley, I think.

Q. What makes you think so?—A. Because generally when I came in the bay I went right on Bradley.

Q. Therefore you think you caught them on Bradley?—A. I don't think; I am pretty certain I caught them on Bradley.

Q. Is it a fact that a considerable number of American fishermen, when they first come in the bay, go to Bradley?—A. They used to go to Bradley.

Q. That was the practice?—A. Yes.

Q. Is it true or not, as has been stated in evidence here, that for about one week or ten days, sometimes, you have been in the habit of finding plenty of fish there?—A. Yes.

Q. That is correct?—A. Yes; plenty on Bradley; we caught them very fast.

Q. After leaving Bradley where did you go next?—A. We generally went to the Magdalens.

Q. That has been your practice?—A. That has been my practice.

Q. You go to Bradley first and then to the Magdalens; has that been the practice of others?—A. That has been the practice of quite a large part of the fleet.

Q. Of how many of the fleet?—A. I could not say; I don't know.

Q. How is it that in some of your catches there is no account of Bradley? Did you sometimes fail to catch any there. You always went there first, did you not?—A. Yes.

Q. And then you always went straight from there to the Magdalens?—A. From Bradley we perhaps crossed over the gully to the Magdalens; the gully is between the Magdalen Islands and Bradley.

Q. I asked you where you went next, and you said direct to the Magdalens?—A. To the Magdalens. Yes.

Q. From Bradley?—A. Yes; but we would be fishing from there to the Magdalens.

Q. You did not go direct?—A. What we call direct. We would just luff to and try for half or three-quarters of an hour.

Q. Did you luff to in going that year?—A. I could not say.

Q. That was your practice?—A. Our practice was to luff to and try.

Q. Not to go direct?—A. Sometimes we would run direct.

Q. Your former answer was that you went direct?—A. I went direct from Bradley.

Q. You mean you may have luffed to sometimes; still you call that going direct?—A. Yes; that is a kind of fisherman's phrase.

Q. Then when you say you fished at the Magdalens, you don't mean at the islands particularly, but all around in that region?—A. In the neighborhood; sometimes we are out of sight of land, to the northward, and then we are close in.

Q. Did you ever fish along the two shores of the River St. Lawrence at Gaspé, and across on the other side?—A. Not much; we did some.

Q. You have not fished much there, but have fished some. That is the first time we have heard you caught any whatever there, and still you give a very vague answer?—A. I think I told you I caught some fish off Bonaventure.

Q. Did you on every trip go to one shore or the other, to Gaspé and across to the other side?—A. Most generally. I was at Bank Orphan the last time I went to the bay.

Q. I ask you if you on every occasion you went northward went to either one shore or other, or both shores of the St. Lawrence to fish?—A. As a general rule, I tried after I got on the Banks.

Q. I am speaking about Gaspé. Take Gaspé; did you usually go in those years to either one shore or the other to fish?—A. Yes; I generally went.

Q. Did you ever hear of any mackerel being caught on the shores of the St. Lawrence outside of three miles?—A. Yes.

Q. We will take the north side first.—A. Yes; outside of three miles.

Q. How far have you been up the shores of the St. Lawrence?—A. I was never but a few miles past Gaspé, between Gaspé and Madeleine River—half way from Gaspé to Madeleine River.

Q. On the other side of the river, how far have you been up above Gaspé?—A. I have been perhaps 10 or 15 miles above Gaspé. I have only been on the port hand going up.

Q. I ask you about both shores of the St. Lawrence?—A. I only went on one, the port hand.

Q. Did I not ask you, and did you not tell me that you generally fished on both shores of the St. Lawrence River, above Gaspé?—A. No; because I never went there.

Q. You never fished on the north side of the St. Lawrence?—A. No.

Q. On any occasion?—A. No.

Q. You never tried to fish there?—A. No. I have been ten miles above Gaspé.

Q. Did you ever fish on the north shore of the gulf anywhere?—A. I fished some about Bonaventure, off Bonaventure Island.

Q. You never fished on the north shore of the gulf at any place whatever?—A. No.

Q. You never tried to fish there?—A. I never was there—not on the north shore.

Q. You never fished anywhere in the river St. Lawrence?—A. I don't know whether you call it the river St. Lawrence at Gaspé. I say I have been up about ten miles above Gaspé.

Q. Not farther than that?—A. No.

Q. You don't call that the river St. Lawrence?—A. I suppose not.

Q. You never heard that called the river St. Lawrence?—A. I don't know how far down it comes.

Q. Did you ever hear it called the river St. Lawrence?—A. What part?

Q. At the place you have mentioned?—A. No; I don't know that I ever did.

Q. You stated that when you spoke of the Magdalen Islands you meant all round there?—A. When we fish all round about those islands we call it fishing at the Magdalens. If I caught a trip north of the Magdalens 10, 15, or 20 miles, and if I spoke a vessel, and they wanted to know where I caught the fish, I would say at the Magdalens, north of the Magdalens.

Q. When I first asked you the question if you had ever fished on other shores at the mouth of the Saint Lawrence, except Gaspé, I understood you to answer me that you generally went there and fished?—A. I think not.

Q. That you not only fished at the Magdalens, but generally fished on

both shores of the river Saint Lawrence, above Gaspé ?—A. No, I don't think so.

Q. Do you remember my asking you anything to that effect ?—A. I think so. I said I never fished there.

Q. You never mentioned the place Gaspé in direct examination ?—A. I said I had fished some off Bonaventure. You asked me how far up I had been, and I told you 10 miles above Gaspé, as high as I could judge.

Q. Is that the way you generally went ?—A. What do you mean ?

Q. You cannot deny that you stated in evidence since I first commenced the examination, that at some other places besides the Magdalen Islands, you had fished generally ?—A. I said I had fished on Bradley.

Q. After you had left Bradley and gone north, I asked you about some other places, and you said you fished there generally, and they were different places from the Magdalen Islands. That is correct, is it not ?—A. I told you I went to Bradley, and from there to the Magdalen Islands, but we often tried in going. I spoke of what we call the gully between Bradley and the Magdalens.

Q. I was speaking of farther north. From your own expression you did not mean the Magdalen Islands alone, but all around ; and I took it up and asked you if you did not fish on both shores of the Saint Lawrence ?—A. And I told you no.

Q. Were you ever in Bay Chaleurs ?—A. No farther than Port Daniel. I went in once to make a harbor, but I did not stay, and came out.

Q. You did not fish in Bay Chaleurs ?—A. Not in what I call Chaleur Bay, inside.

Q. Did you ever fish on the shore of Gaspé ?—A. No. I was up there once, but I didn't fish there. I fished away off eastward of Gaspé. When we were at Bonaventure we tried up and down there.

Q. Every year ?—A. No.

Q. Tell me when.—A. The same year I had been up at Bonaventure. If you let me look at the year in my book I can tell you pretty near. I never made a general fishing at Bonaventure, only up and down.

Q. If you look at your book, can you tell me if you fished at Bonaventure ?—A. I think I could from the year.

Q. How often did you fish there ?—A. I could not say.

Q. Did you fish there two years ?—A. A general fishing ?

Q. Did you fish there at all, any fishing whatever ?—A. I have fished off Bonaventure, but I made no general fishing.

Q. Did you fish there for two years, or did you fish on two different occasions in one year ?—A. I could not say.

Q. Have you been there on more than one occasion in a year, or only once one year ?—A. I know I was there two different years.

Q. Were you there more than once in one year ?—A. Perhaps I have been there more, perhaps less.

Q. You don't know how often you have been there ?—A. I could not tell the exact time. I know I have been there and fished there.

Q. From 1852 down to the present hour, how many times have you been there ?—A. I could not say, because I don't know.

Q. Have you been there twice ?—A. Yes ; probably I have.

Q. Have you been there three, four, five, seven, or ten times ?—A. I could not say.

Q. Have you been there twenty times ?—A. I could not say, as my memory does not serve me.

Q. Have you been there one hundred times ?—A. No.

Q. Have you been there fifty times ?—A. No.

Q. Thirty times?—A. Perhaps I have been there a dozen or fifteen times, that is as high as I can recollect.

Q. Have you been there twice in one year, or a dozen or fifteen different seasons?—A. Less than that.

Q. Have you been there ten seasons?—A. I think not.

Q. You are not able to say positively?—A. No, I am not.

Q. That is off Bonaventure?—A. Off Bonaventure.

Q. Do you know what vessels you were in fishing there ten or fifteen times.

Mr. FOSTER said the witness had previously stated that he could answer the question if he had his book to look at.

Mr. WEATHERBEE. Do you now say you wanted to look at the memorandum to find out what vessels you fished in off Bonaventure?—A. I said I should like to have the book.

Q. I ask you now, did you say you wished the book to find out in what vessels you fished off Bonaventure?—A. I don't know that you asked me the question then.

Q. You don't know?—A. I could tell, I said, by looking at my book.

Q. You could tell what vessels you fished in off Bonaventure?—A. Yes; I think I can.

Q. Do you say you wanted the book for that purpose?—A. I don't know whether you said Bonaventure or not. You asked me where I caught the mackerel, and I said if you handed me the book I could tell you very nearly.

Q. Was that in regard to Bonaventure?—A. I am not certain whether Bonaventure was in it or not.

Q. Did you want the book to find out in what vessels you fished off Bonaventure?—A. Yes.

Q. You asked for it for that purpose?—A. I cannot say for certain that it was as to Bonaventure.

Q. Are you able to say what you required the book for?—A. Well, I think you asked me about some certain place, and I said if I could refer to the book I could tell you.

Q. Did you not tell me you put the names of the places where you caught fish into this book entirely from memory, and not from any other source?—A. No.

Q. Have you not sworn that?—A. No.

Q. You have not sworn that the names of the places where you caught your fish in the gulf were not taken from any source except your memory?—A. I think not.

Q. Is it not a fact that the names of the places where you caught fish in the gulf, which have been entered in this book, were taken from your memory alone, and from no other source?—A. No; I said I took it from some of my account-books.

Q. Do you now say that you took down in that memorandum the names of the places where you caught your fish from your old account-books?—A. I don't swear it.

Q. What do you swear? Do you say the names of the places entered in the book, as being the places where you caught your fish, were entered from the account-books, or bills, or any other source?—A. I said some of them were taken from it.

Q. You say now that you swore before that some of those names of places were taken from what?—A. From my account-books.

Q. That is, some of the names of the places?—A. Where I caught my fish.

Q. Were taken from your account-books. You say now you swore before that was the case?—A. I don't think that I swore it.

Q. You said it since you came here?—A. I said it.

Q. You understood that as swearing to it?—A. I swore to speak as well as my memory would allow me, and to the best of my ability.

Q. What I understood you first to say was that you took the names of the places where your fish were caught, from your memory?—A. Not altogether; I took some from my account-books.

Q. Some of the names of the places where the fish were caught?—A. Yes.

Q. What kind of a book was it—what would you enter?—A. It was nothing but a common account book.

Q. Tell me what names of places where you caught fish were taken from the account-book and what were not.—A. 1846 and 1847, I recollect.

Q. Some of the places entered in this book were taken from your account-book?—A. Yes.

Q. What in regard to the rest—were they taken from memory?—A. I said most were taken from my account book.

Q. Are you able to tell me what places entered in that book as being places where you caught your fish were taken from your memory alone and not from any account-book?—A. I could not distinguish them.

Q. Then with regard to the places where your fish were taken, entered in that book, they were entered partly from your memory and partly from your account-book? Is that correct?—A. Yes.

Q. There is no mistake about that?—A. No.

Q. Now, how many years did you find a record of the places where you caught your fish entered in your account-book?—A. I could not tell you exactly.

Q. About half the time?—A. I think so, or more.

Q. And the other half?—A. You understand, part of those I took from other sources.

Q. Did you enter half the places from memory?—A. I could not tell exactly.

Q. When you caught fish did you enter the name of the place?—A. Yes, in a book which I had with me on my vessel.

Q. You generally entered the name of the place where you caught your fish?—A. Not always.

Q. Did you sometimes?—A. Yes.

Q. How often did you do so?—A. I could not tell you exactly.

Q. Can you give me any idea how often?—A. Probably one-half or more.

Q. Will you swear to one-half? Are you able to say that you entered half the names of the places where you caught your fish?—A. I think I did.

Q. Then how are you able to state with regard to other places which you did not enter?—A. I got that by following my years down—I recollect.

Q. You got them from your memory alone?—A. Some.

Q. I am speaking of the places not entered in your account book, and which you got from your memory alone. Did you go and ask somebody else about them?—A. No.

Q. You got them from your memory alone?—A. I got them from my memory.

Q. From memory alone?—A. I think so.

Q. From memory alone, is that correct?—A. I think so.

Q. I will take the year 1855, where did you catch your fish in 1855, and where in 1856? I am trying your memory now. I observe you are looking at the book.—A. I think I caught them on Bradley.

Q. In 1855 and 1856?—A. I think so.

Q. Do you state that from your memory alone, or do you find it in the book?—A. I get it from my memory alone.

Q. Can you speak respecting 1856 from your memory alone?—A. I do not know as I could.

Q. Can you do so respecting 1857, 1858, 1859, and 1860?—A. In 1860 I was at the Magdalen Islands.

Q. Can you speak concerning the other years, between 1856 and 1860, from your memory alone?—A. Well, we were some on Bradley Bank, and some at the Magdalen Islands; these islands were generally my fishing ground.

Q. You said a moment ago that in 1860 you were at the Magdalen Islands?—A. I think that I did say so.

Q. And you state that from your memory alone?—A. I think so.

Q. I understood you to say in direct examination that in 1860 you caught your fish on Bank Bradley—not at the Magdalen Islands; how do you account for that? Can you state from your memory alone where, during any one year, you caught your fish?—A. Yes.

Q. Give one year.—A. 1869.

Q. Where did you catch them then?—A. On Bank Orphan.

Q. Can you give me any other year?—A. Yes.

Q. Which?—A. 1845.

Q. Where did you then catch them?—A. On Bank Bradley.

Q. Had you that fact entered in your book?—A. In this book?

Q. Yes.—A. Yes, I think so.

Q. Did you have it entered in your other book?—A. It might have been in some of the books.

Q. Do you know whether it was so entered or not? Are these the only two years you remember?—A. No.

Q. Give one, another year.—A. 1862.

Q. Where were you then?—A. At the Magdalen Islands.

Q. In direct examination, you said that in 1862 you caught your fish all over the bay?—A. Perhaps I am wrong respecting all over the bay, but I do not think that I gave it so.

Q. If you did, then you were wrong?—A. Yes.

Q. Did you so give it in from your book?—A. I think I gave it in that we then caught our fish at the Magdalen Islands.

Q. You are giving that from the book?—A. I gave it from the book at first.

Q. And now also, are you not?—A. Well, no. I did not give it from the book at first, but I have looked at it since. I told you the Magdalen Islands, when I looked at the book.

Q. And when you first made your statement on the point to Mr. Foster you did not give it from the book; is that correct or not?—A. Yes—no, no.

Q. When you gave it to Mr. Foster, did you give it from the book? When you made your statement to Mr. Foster in direct examination as to where you caught your fish in 1872, did you give it from the book? I have taken your statement down, that you caught them all over the bay that year; am I incorrect?—A. I could not say for a certainty.

Q. Whether you did so or not, where do you now say that you caught them?—A. In 1862, I said, we caught them at the Magdalen Islands.

Q. You are positive about that?—A. I am not positive, but I think so.

Q. Look at the book, and see what you have there respecting 1862?—
A. In 1862, it says, we caught our fish at the Magdalen Islands.

Q. Where did you get that statement—from your memory or from some other book?—A. I told you that I could not tell just now. Perhaps I partly took it from my old books, and partly from my memory.

Q. You do not know whether you took it from another book or from your memory?—A. I think that I took it from another book.

Q. Did you say a moment ago that you did not know whether you took it from another book?—A. I said, I am not certain about it.

Q. Are you certain now? Can you recollect?—A. I do not know that I can be positive about it.

Q. How much of your fish would you estimate that you caught within three miles of the shore in British waters during the whole period in question?—A. I do not know as I can make that out exactly to a fractional part, because in some trips I have not caught any within this limit.

Q. Can you give me any idea as to how much you so caught?—A. In all my fishing?

Q. Yes.—A. Well, perhaps 150 barrels. I mean in the course of all these trips.

Q. Did you ever hear of the practice of lee-bowing?—A. I have; and I have seen it.

Q. Have you ever seen it done in the Bay of St. Lawrence?—A. Yes; but very little.

Q. But you have seen it?—A. I have seen some of it there.

Q. Where?—A. When fishing off Entry Island, at the Magdalen Islands.

Q. Have you seen it anywhere else?—A. Yes; between Amherst Island, of the Magdalen Islands, and East Point, Prince Edward Island.

Q. Have you seen it anywhere else save at the Magdalen Islands?—
A. I said I had seen lee-bowing off Entry Island and between Amherst Island and East Point.

Q. Where is Entry Island?—A. On the south side of the Magdalen Islands.

Q. Have you ever seen it anywhere else besides at the Magdalen Islands?—A. Yes; between Amherst Island and East Point, Prince Edward Island, when fishing just in the lay of the Magdalen Islands.

Q. Out in the open sea?—A. Yes.

Q. I do not refer to that; I never heard of it myself; I allude to the lee-bowing of boats; did you ever hear of that being done inshore?—A. No; I never heard of the lee-bowing of boats.

Q. Never in your life?—A. I do not know as I ever did.

Q. The lee-bowing of which you have heard was the lee bowing of vessels?—A. Yes; of the lee-bowing of boats I know nothing.

Q. Do mackerel fishing-vessels usually carry apparatus for catching codfish?—A. No; with the exception of a line or two to catch fresh ones. I speak now of my vessels and where I sailed from.

Q. And you have been in about fifty-two vessels?—A. Yes; I only speak of those.

Q. Do not mackerel fishing-vessels usually carry home some codfish; does not the master of every mackerel fishing-vessel carry home some?—
A. Not every one; those I have been in have never carried home codfish.

Q. Does not almost every such vessel do so?—A. I could not say.

Q. Does the master of every mackerel fishing-vessel carry herring-nets on board?—No. A. I do not know of any that do so.

Q. Do cod fishing-vessels do so?—A. I do not know anything about the cod-fishery; I never went cod-fishing.

Q. You have no knowledge of the cod-fishing business at all?—A. No.

Q. You have spent your life in the mackerel-fishing business?—A. No; I have been in the marine service and in different businesses; I have been coasting.

Q. You have been fishing a great many years?—A. Yes.

Q. From 1852 up to the present time; first you fished, and then you owned vessels?—A. Yes; I was fishing, and I have owned vessels.

Q. From 1852 up to the present time, you have been engaged in the mackerel fishery, either fishing yourself or owning vessels?—A. Yes.

Q. And you have no knowledge of cod-fishing?—A. Cod-fishing I know nothing about.

Q. Have not very great catches of mackerel been made in the Bay of St. Lawrence?—A. Some few years they have.

Q. And during some years, the mackerel fishery has been bad?—A. Yes.

Q. And during the whole period in question, have there not been taken enormous catches of mackerel?—A. I do not know that fishermen have done any better in the Gulf of St. Lawrence than on our own coast. Vessels that have followed up our fishery have done so right along.

Q. Has not the mackerel fishery on your own coast failed to a great extent?—A. It was very good last season.

Q. I will just read a passage from Professor Baird's report, and see if it is correct in your opinion. Do you know Professor Baird?—A. I have no acquaintance with him, but I have seen him here.

Q. You are acquainted with him by reputation?—A. Yes.

Q. The passage is as follows:

Bearing in mind that the present report has more particular reference to the south side of New England, and especially to that portion of it extending from Point Judith on the west to Monomoy Point on the east, including Narragansett Bay, Vineyard Sound, Buzzard's Bay, Martha's Vineyard, and Nantucket, I have no hesitation in stating that the fact of an alarming decrease of the shore fisheries has been thoroughly established by my own investigations, as well as by evidence of those whose testimony was taken upon the subject.

Is that correct in your view?—A. I should think so.

Q. Here is another passage:

We may also refer to the testimony of the Rhode Island committee, on page 104, in reference to the increase of the cost of living on the coast of that State, in consequence of the diminution of the fisheries. "One very intelligent man thought it made \$100 difference in the cost of living on the shore and in the small towns on the bay, and, from his own experience, he had no doubt that there are one thousand persons living near the shore to whom it made this difference, amounting to a loss to them of \$100,000 each year, that of the high price of fish in Providence market not being taken into account."

Is that correct? The report continues:

Many persons are in the habit of considering that the fish supply of the sea is practically inexhaustible; and, therefore, that a scarcity of any particular location is to be referred rather to the movements of the fish, in changing their feeding-grounds capriciously, or else in following the migration, from place to place, of the food upon which they live. This may be true to a certain extent, as we shall hereafter show, but it is difficult to point out any locality where, near the shores in the New England States, at least, under the most favorable view of the case, the fish are quite as plentiful as they were some years ago; and still more so where, by their overlapping the original colonists of the sea-bottom, they tend to render the abundance appreciably greater than usual. And, furthermore, if the scarcity of the fish be due to their going off into the deep waters of the ocean, it is, of course, of very little moment to the fisherman that they are as abundant in the sea as ever, if they do not come upon such grounds as will permit their being taken by his lines or nets.

Is that correct?—A. The fish are going away off shore; but they can be caught off shore as well as inshore.

Q. He says:

And furthermore, if the scarcity of fish be due to their going off into the deep waters of the ocean, it is, of course, of very little moment to the fisherman that they are as abundant in the sea as ever, if they do not come on such grounds as will permit their being taken by his lines or nets.

Is that correct?—A. I think so. You can catch fish off shore as well as inshore.

Q. Did you say that fish that cannot be caught are of no value to any one?—A. I take it that fish which cannot be caught are of no value to any one.

Q. Is the report I have read substantially correct?—A. I do not know as I understand it particularly.

Q. The report also states:

At the present time this resource is cut off to a great degree from this class of people in many places on the Massachusetts coast, where, as on Nantucket, Martha's Vineyard, and elsewhere, the deprivation from the loss of profits by fishing is being most seriously felt. The result, of course, of the inability to make a living in this manner is to drive the line-fishermen to other occupations, and especially to induce them to leave the State for other fields of industry.

Is that correct?—A. I do not understand this driving off of the fish. If anything drives the fish off shore, it is the weirs and pounds, and not the fishermen.

Q. You think that something does drive them off?—A. I think that the weirs and pounds drive the fish off shore.

Q. Has this decrease in shore fisheries driven fishermen to other occupations, and do they leave the State to seek other fields of industry?—A. I think so.

Q. Is it a fact that they do leave the State for other fields of industry?—A. Very few do so.

Q. Is it the fact or not?—A. I think not.

Q. You think that they do not leave the State?—A. Yes.

Q. The report further states:

In consequence the population is reduced, and the community feels this drain of some of its best material in many ways. Furthermore, property depreciates in value, farms and houses are abandoned, the average of taxation is increased, and many other evils, readily suggesting themselves, are developed.

Again, an important stimulus to the building of ships and boats is lost in the decreasing demand for vessels of various grades; and, what is more important to the country at large, the training of skilled seamen with which to supply our national and our merchant marine generally is stopped, or more or less interferred with. It is well known that the line-fisheries, in their different manifestations, have always been looked upon as of the utmost importance in a politico-economical point of view, for which reason bounties were paid by the general government; and, although these have been lately withheld, it may be necessary to restore them in order to regain our lost ground.

Do you approve, generally, of these remarks which I have read from Professor Baird's report to Congress?—A. Well, my opinion about fish is, that there are as many fish in the sea as ever there were. There are years when they are very plentiful on our coast.

Q. Have your fisheries so decreased as to produce any of the results mentioned in the extracts which I have read to you, or not?—A. Perhaps this is so in some cases. Our fishing was never better than it was on our coast last season at our place.

Q. But that was an exceptional case?—A. Well, it was the case the year before.

Q. Were those two years exceptional?—A. No, because we have had good fishing generally.

Q. Is the mackerel fishery a fishery that may suddenly revive?—A. Yes. There are years when the fish are scarce, and then years when they will be very plentiful.

Q. You are perfectly certain of that in your own mind?—A. That is so, so far as my experience goes.

Q. It is a fishery that may suddenly revive?—A. Yes.

Q. I will read a few extracts from the Fisherman's Memorial and Record Book, published at Gloucester by Proctor Brothers.—A. I know the firm.

Q. You are thoroughly acquainted with this book; it is used very much by mackerel fishermen?—A. I have read it.

Q. It is pretty reliable, is it not?—A. Yes.

Q. It is considered reliable in its statistics?—A. I know nothing to the contrary. I suppose so.

Q. It states:

The largest stock made in the Bay of St. Lawrence mackerel fishery was that of the schooner Col. Ellsworth, Capt. George Robinson, in 1865. She was absent about five months, her net stock amounting to \$13,728. The high-liner's share was \$558; cook's share, \$582.

Schooner Gen. Grant, Captain Coes, in 1864 stocked, in two trips to the Bay of St. Lawrence, \$11,254.94 clear of all expenses. The high-liners made \$502.24; cook's share, \$638.17.

Schooner Norwester, Capt. Daniel Hillier, the same year stocked \$9,721.74, net in one bay trip; the high-liners making \$308.60, and the cook \$486.61.

Schooner General Sherman, Capt. George W. Miner, in 1864, in a three-months' trip to the bay, packed 612 barrels of mackerel, her net stock amounting to \$6,696. High-liner's share, \$575.06.

Schooner Kit Carson, Capt. Horace Merry, in 1865 brought in 591 barrels of mackerel, having been absent about ten weeks. Her net stock amounted to \$6,542. High-liner's share, \$260.

You did as well as that in one case?—A. Yes—very nearly.

Q. Did you do better?—A. What was the high-liner's share?

Q. \$260?—A. I have done as well as that.

Q. Have you not done better?—A. We sail our vessels a little different from the way in which they do.

Q. The take in question amounted to 591 barrels in ten weeks?—A. I know of vessels that have made a good deal larger stock on our coast.

Q. Than those I mentioned last?—A. Those were for Gloucester apparently.

Q. Yes. Have you known vessels do better than the last did I have named?—A. I say I have known vessels fishing on our coast that have done so.

Q. And better than the last one I read, or better than the first one?—A. Better than the best one.

Q. Will you name the vessel?—A. She was the J. H. Orton, of Wellfleet.

Q. What did she do?—A. I think she stocked to the value of \$16,000 odd. It was somewhere in that neighborhood, but I am not certain as to the exact amount.

Q. How long was she fishing?—A. From May to the last of October.

Q. Who owned her?—A. Darius Newcombe, the captain, and others.

Q. This must be mentioned in this book?—A. No. She is owned at Wellfleet.

By Mr. Foster:

Q. Whereabouts is Wellfleet?—A. It is between the east end of Cape Cod and Truro, which adjoins Provincetown.

By Mr. Weatherbe :

Q. You say that the mackerel fishery is one which is very likely suddenly to revive ?—A. Yes.

Q. You have heard of many large catches like this in the bay ?—A. Yes.

Q. You have mentioned several years in which your vessels have not done very well ; what years were these ?—A. This was the case during some 3, 4, or 5 years.

Q. On other occasions previously, the catch in the mackerel fishery was diminished ?—A. Yes. There have been ups and downs in it.

Q. How long did this last ?—A. Not more than a year or so. Are you alluding to the fisheries on our coast ?

Q. No ; but to the fisheries in the bay ?—A. The best I ever did in the bay was during 2 or 3 years.

Q. How long was the catch from year to year diminished on any previous occasion ?—A. Take the period from 1865 down.

Q. That year I have given and other years since ?—A. I am speaking from my own observation.

Q. I was asking you to state generally your opinion on the subject : are you only speaking of your own vessels in this relation ?—A. I was speaking of my own vessels ; yes.

Q. Your evidence generally relates to your own vessels ?—A. Yes.

Q. You are confining your evidence to your own vessels ?—A. I am doing so, chiefly. I do not know anything more than what I have heard about other vessels which I have spoken with. I have given evidence chiefly regarding our own vessels.

By Mr. Foster :

Q. You never saw, I suppose, this report of Professor Baird's, from which extracts were read to you ?—A. No.

Q. You were not aware that it was a report with reference to the shore fisheries ? Professor Baird says : " Other species more capricious in their appearance, and belonging essentially to the division of outside fishes, were the mackerel, the bluefish, and so forth."—A. I know that this season there were—on the coast—so they tell me.

Q. What do Cape Cod mackerelmen mean by the west shore with regard to mackerel-fishing ?—A. The west shore extends from Point Es-cuminac down to about Miramichi Bay.

Q. I understood you to say that you fished no farther than from 10 to 15 miles above Gaspé and off Bonaventure ?—A. Yes.

Q. And north of the Magdalen Islands ?—A. Yes.

Q. When you were asked in reference to passing from Bank Bradley to the Magdalen Islands, you spoke of fishing in the gully ; explain what you meant by that term.—A. I referred to the gully formed in the deeper water between Bradley and the Magdalen Islands.

Q. This was when you were going right across from Bank Bradley to the Magdalen Islands ?—A. Yes.

Q. When you are going in a direct course do you fish from time to time between those two places ?—A. Yes.

Q. When you were passing from Bank Bradley to the Magdalen Islands did you fish on the way ?—A. Yes ; often.

Q. At the end of a mackerel voyage your duty as captain was to make up the account of what had been caught ?—A. Yes.

Q. And the account of what each of the crew had caught ; did you do this at Wellfleet ? Did you make a separate account ?—A. We do not

make it separate. The captain will perhaps have two or three shares and the rest will be on half-lines.

Q. What do you mean by that—did each man get one-half of his own catch?—A. When his fish are sold and we have paid for the inspection we give each man one-half.

Q. One-half of his own fish?—A. Yes; and we take the rest.

Q. And a report is made respecting the fish which each sharesman has caught?—A. Yes.

Q. And is it your duty as captain to see that a just division of the fish is made at the end of the voyage?—A. In our place the captain settles the voyage with his crew.

Q. And then you have to make out an account for the whole voyage, showing how much has been caught in all, how much each man has caught, and how much each man's share is?—A. Yes.

Q. And these old accounts you have, to some extent, preserved up to this time?—A. Yes.

Q. Where did you find them?—A. In my attic.

Q. In preparation for your coming here you went up to the attic and examined your accounts, and some, you say, were account-books?—A. Yes.

Q. To what extent had you put down memoranda as to the places where the principal catch was made in those account-books?—A. I think one-half or more.

Q. Then, from those copies of accounts rendered, and from those old account-books, you were able to make up and write down in your memorandum-book a list of the voyages you have made and the catch of each year?—A. Yes.

Q. And with the help of those old account-books and of accounts rendered, you have refreshed your memory and given as good an account as you could of the particular localities where you fished?—A. Yes.

Q. Have you looked at this schedule of fishing licenses issued to United States fishermen?—A. Yes.

Q. There is no doubt but what you paid for those two licenses, is there?—A. Why, no.

Mr. FOSTER. I call the attention of our brethren on the other side to this matter. Here are the two licenses, and in our inspection of the list we have not been able to discover the name of the captain or the fact of the issue of these licenses.

By Mr. Davies:

Q. What years do you speak of?—A. 1866 and 1868.

By Mr. Foster:

Q. You bought them in the gulf?—A. I bought them at Port Mulgrave. Vincent Wallace was then collector of customs there.

By Mr. Weatherbe:

Q. When you were in the Ruth S. Atwood you did not take out a license?—A. No.

Q. You were in this vessel and you had no license in 1867?—A. Yes; 1866 and 1868 were the years when I had licenses.

By Sir Alexander Galt:

Q. I would like to ask you if you ever took advantage of these licenses to fish inshore? Where did you fish when you had these licenses?—A. I got the licenses to fish inshore, but I could not find any fish there.

Q. Where did you try to fish inshore? Did you make any use of them?—A. I tried there, but I could not find any fish inshore, and so I went off.

Q. Where was this?—A. About Prince Edward Island.

Q. Both years?—A. Yes.

By Mr. Weatherbe:

Q. Mr. Whitcher has called my attention to the H. W. Pierce—you gave evidence respecting that vessel?—A. Yes.

Q. You say she was employed on the United States coast in 1873?—A. No; not if my memory serves me rightly.

Q. During what years did you say that she was employed on the United States coast?—A. That was in 1874 and 1875. I think it was in 1873, when she was cast away at the time of the gale on the Magdalen Islands.

Q. During what years was the John Somes employed on the United States coast?—A. During the same years—1874 and 1875.

Q. You have just stated that when you had these licenses you fished off the coast of Prince Edward Island?—A. I said I tried there but could not find any fish.

Q. On what part of the coast were you?—A. I was all along it, from East Point to North Cape.

Q. How long did you try there?—A. I tried off and on at different times.

Q. About how many times did you try?—A. Probably 40 or 50.

Q. I understand that you previously mentioned all the places where you had fished or tried to fish, but you did not mention this fact. Did you ever try to fish there during other years?—A. No.

Q. What then induced you to take out a license and try there these years?—A. I thought I would get a license so that I would not be disturbed.

Q. But you say that you had never gone there before?—A. But I thought I would go.

Q. I understood that you had previously named all the places where you had tried to fish. You told me that you had gone to Bank Bradley and to the Magdalen Islands, but you did not require a license for this?—A. You never asked me about those years.

Q. I asked you about all the years when you were fishing in the bay.—A. You did not ask me about 1866 and 1868.

Q. I questioned you generally.—A. I did not understand you, then.

Q. Your previous answer was that you had never fished at any other places, and that you had only gone to Bank Bradley and the Magdalen Islands. Is that correct?—A. I also said that I had been at Bonaventure.

Q. Previous to this you never fished except at the places which you have mentioned?—A. Yes.

Q. And you have never tried anywhere else?—A. I think so.

Q. And though you had never tried to fish off Prince Edward Island, you thought that you would go and get a license and try there?—A. I thought that I would try there.

No. 5.

Capt. NATHANIEL ATWOOD was recalled and examined.

By Mr. Foster:

Question. Will you produce the list of vessels you have prepared? I understand that you cannot give the names of their captains?—Answer. I cannot give all of them.

Q. And so you have not put the names of the captains down?—A. No. The list is as follows:

List of vessels belonging to Provincetown, Mass., engaged in the cod-fishery on the Banks of Newfoundland in 1877.

Names.	Tonnage.	Agents.
1. Allie B. Dyer.....	87.23	David Conwell.
2. Leading Breeze.....	69.51	Stephen Cook.
3. Mary G. Curren.....	102.14	Nathan D. Freeman.
4. Freeman.....	93.55	Do.
5. Star King.....	65.95	Do.
6. Benjamin F. Rich.....	68.84	Do.
7. Charles H. Hodgdon.....	112.32	Do.
8. Minnesota.....	62.76	Francis Joseph.
9. J. E. Bewly.....	70.16	Do.
10. Warren B. Hopkins.....	87.77	Bangs A. Lewis.
11. Sarah R. Smith.....	69.80	Do.
12. Isaac Keen.....	77.76	Isaac F. Mayo.
13. Charlie F. Mayo.....	82.31	Do.
14. Willie A. Jewell.....	70.63	Philip A. Wharf.
15. Camilla.....	54.82	Do.
16. Florence.....	63.65	Do.
17. Wenonah.....	65.14	Thomas R. Wharf.
18. C. M. Walton.....	52.23	F. T. Doggett.
19. Chanticleer.....	60.84	Henry Cook.
20. S. E. Davis.....	72.40	Do.
21. Arthur Clifford.....	84.55	Do.
22. Belle Bartlett.....	75.62	Angus McIntire.
23. Lotta Bell.....	96.10	Do.
24. Bucephalus.....	69.91	E. K. Cook.
25. Joseph Lindsay.....	64.79	Samuel Rich.
26. Pomona.....	66.33	David Conwell.
27. Alice Raymond.....	69.37	Do.
28. Emma Linwood.....	73.49	L. N. Paine.
29. Abbie H. Brown.....	95.12	Thomas Hilliard.
30. Baltic.....	80.85	Charles Nickerson.
31. Ella May.....	96.44	E. K. Cook.
32. Lizzie W. Matheson.....	193.52	Henry Cook.
33. Gertrude.....	72.27	Do.
34. East Wind.....	97.20	David Conwell.
35. Mary Matheson.....	114.75	Angus McIntire.
36. William Matheson.....	111.07	Do.
37. Teresa D. Baker.....	87.23	Henry Cook.
38. Spring Bird.....	80.02	F. T. Doggett.
39. Freddie W. Alton.....	86.21	Do.
40. Lotta Byrns.....	97.03	Philip A. Wharf.
41. Willie L. Swift.....	100.68	S. S. Swift.
42. Charles Allstrum.....	73.81	Hugh McFayden.
43. Freddie Walter.....	82.40	L. N. Paine.
44. Ellie F. Long.....	97.95	Do.
45. Virgin Rock.....	52.76	David Smith.
46. John S. Higgins.....	46.51	Tilton Cook.
47. John Simmons.....	70.30	Charles A. Cook.
48. Mary E. Nason.....	108.32	David Conwell.

Q. Perhaps you can give the nationality of the different captains of these vessels from Provincetown?—A. Of the 48, 6 are native-born citizens of the United States; 9 are Portuguese, who, I think, without an exception, were born in the Azores; and 33 are natives of Nova Scotia—I include Prince Edward Island with Nova Scotia.

Q. I suppose that the last named are naturalized?—A. Yes; we do not clear a vessel from the custom-house unless the captain's papers are there.

By Mr. Whiteway:

Q. How did you ascertain the facts concerning the birth-places of these captains?—A. I have known the six who are native-born citizens of the United States from boyhood, and I remember when some of them were born. We have the Portuguese living there, and we are acquainted with them, and by hearsay we know that they come from the Azores. I am informed that the others came from Nova Scotia, and we know

them as neighbors and citizens. I am acquainted with almost everybody in Provincetown.

Q. They are all naturalized citizens?—A. O, yes; I am connected with the custom-house, and I know something about what is done there. When they clear, the captains have to take oath that they are citizens of the United States.

No. 7.

FRANCIS M. FREEMAN, MERCHANT and outfitter, of Provincetown, Mass., was called on behalf of the Government of the United States, sworn and examined.

By Mr. Trescot :

Question. How old are you?—Answer. I am 47.

Q. What has been your occupation?—A. I have been a fisherman part of my life, and an outfitting merchant during part of it.

Q. What is your present occupation?—A. I am a merchant and outfitter of vessels.

Q. Which was the first year when you went fishing?—A. The first year I was in the Bay of St. Lawrence was 1851.

Q. What was the name of the vessel?—A. The Sarah E. Louis.

Q. Where did you fish?—A. About North Point, on Bank Bradley, and forty miles north of Gaspé.

Q. What was your catch?—A. About 400 barrels' taken off shore.

Q. That was your first trip?—A. Yes; we made another trip.

Q. Where did you then go?—A. About Prince Edward Island and outside of it, and down on the Cape Breton shore, about Margaree Island.

Q. What did you catch?—A. Six hundred barrels.

Q. What proportion of it did you take within the three-mile limit?—A. Two hundred barrels, caught off Margaree Island. This was in 1851.

Q. When did you go again?—A. In 1855.

Q. Where were you in the mean time?—A. I was fishing on our shore, and I was in California.

Q. In what vessel did you go in 1855?—A. In the C. W. Dyer.

Q. Where did you fish and what did you catch?—A. We caught 380 barrels at the Magdalen Islands; and then came over to Souris, where we took about 20 barrels.

Q. These 20 barrels were caught inshore?—A. Yes.

Q. Out of 380 barrels you took 20 inshore?—A. Yes; that was my last trip in the bay.

Q. What were you doing since then?—A. During the next 10 years I kept a grocery at Provincetown.

Q. When did you begin fishing again?—A. In 1865.

Q. What did you do then?—A. I fitted out two vessels; one went to the Bay of St. Lawrence, and the other to the Grand Bank.

Q. And you have kept that up ever since?—A. Yes.

Q. How many vessels have you now engaged in fishing?—A. Seven.

Q. Are they all engaged in the mackerel fishery?—A. No; they are all mackerel-fishers, except one which is in the Bay of St. Lawrence. In 1867 I sent one vessel mackereling to the bay.

Q. How did you succeed?—A. We got 80 barrels.

Q. How long were you there?—A. About six weeks in the fall trip.

By Mr. Thomson :

Q. How many did you get in 1865?—A. I sent two vessels out fishing that year.

By Mr. Trescott:

Q. With regard to your cod-fishing, where did you get your bait? You say you sent one vessel cod-fishing into the Bay of St. Lawrence; what did you do with her?—A. We put herring-nets on board of her.

Q. And where did you catch the herring?—A. They fished in the spring at the Magdalen Islands and then on Banks Bradley and Orphan. The nets were placed astern every night.

Q. When you send a vessel cod-fishing in the Gulf of St. Lawrence, she carries a number of nets to catch the bait required?—A. Yes.

Q. She goes to the Magdalen Islands and fishes there until about the 1st of July?—A. She starts in the spring and visits the Magdalen Islands first; and she catches her own bait.

Q. And then she fishes for cod until when?—A. Until she gets her trip.

Q. And then what does she do?—A. She returns home.

Q. In fishing for cod do you set your nets every night?—A. We catch our own bait and sometimes we catch a few mackerel.

Q. Have you fished on the Banks?—A. No; I was never cod-fishing.

Q. Have you ever sent vessels to the Banks?—A. Yes; I did so in 1865.

Q. When you did so what did they do for bait?—A. They carried clams for bait.

Q. From home?—A. Yes; every year, 1874 excepted, when I had one vessel go in for it. She did not procure her trip of fish on that account and did not get home until Christmas.

Q. You found getting bait in Newfoundland a losing business?—A. Yes.

Q. Then you do not allow your vessels to go to Newfoundland for bait, but they carry their bait with them?—A. Yes.

Q. With your experience of the mackerel fishery what do you think of the privilege of catching them within three miles of the coast in British waters, as compared with the levy of duty of \$2 a barrel on colonial-caught fish?—A. I would prefer the latter.

Q. If you were allowed to make your choice which would you take, exclusion from the British inshore fisheries and the imposition of a duty on colonial-caught fish or the privilege of fishing inshore in British waters and no duty?—A. I would rather have the duty.

Q. What do you suppose is the cost of the whole stock of a mackerel-fishing vessel for a four months' trip, and what would she have to catch in order to enable any profit to be made?—A. The whole stock would cost \$4,000, and she would have to catch 400 barrels of mackerel to bring things square, without making a profit.

Q. You say that the bait which you use cod-fishing is caught on your coast?—A. Yes.

Q. How do you catch it?—A. We start about the 1st of May, in the spring of the year, and go to Block Island to fish. We also go to Newport, where they have traps in which they catch the fish on their first coming on the coast. They thus take pogies, alewives and squid. Pogies and herring are also taken at Provincetown.

Q. How do you preserve your bait?—A. In ice. Herring are generally caught for this purpose on the Maine coast.

Q. Do I understand that on your own coast you catch enough squid to supply yourselves with bait?—A. The schools strike inshore in the spring and about the 1st of September, and sometimes they last until the end of November.

Q. And having put the squid in ice do you send them out in your

vessels?—A. Yes. I have known twenty Cape Ann vessels come in September and October to Provincetown Harbor for squid. There are people who make a business of catching and selling squid there.

Q. Are you not the president of an insurance company?—A. Yes.

Q. Are you in the habit of insuring vessels?—A. Yes.

Q. What is the general opinion respecting the insurance of vessels as to any extra danger being incurred if vessels go to the Magdalen Islands? Do you consider that this is especially dangerous?—A. I would rather insure vessels going to the Magdalen Islands than to any other part of the Bay.

Q. And in preference to those going to Prince Edward Island?—A. Yes.

Q. What has been done with respect to the insurance of vessels which go to Newfoundland for bait?—A. Some insurers have inserted in their policies a clause stating that the vessel should not go in there for bait; but we never have done so as yet. This year we lost a vessel which went in for bait, and I think that in future a clause will be placed in our policies prohibiting vessels we insure going in for bait.

By Mr. Thomson :

Q. Is there any clause in your policies prohibiting vessels from entering the Gulf of Saint Lawrence at any particular times?—A. O, no; but we charge half a cent more on vessels which are in the Bay of Saint Lawrence in the month of October.

Q. But your policies do not restrict vessels to any part of the bay?—A. No.

Q. Then I understand you, as a navigator, to state that you look upon the Magdalen Islands as about the safest place in the bay?—A. Yes. Whether as a fisherman or an insurer, I would prefer them to any part of the Saint Lawrence.

Q. And the idea of the sea round the Magdalen Islands being stormy and tempestuous is entirely erroneous?—A. No; but we can make shelter there so much quicker than elsewhere in the bay.

Q. Is there a stormy sea around these islands?—A. I think it is windier at the Magdalen Islands than it is in any other part of the bay.

Q. And yet you think it is safer than any other part of it?—A. Yes; because we never fish there so far off that we cannot make shelter in a few moments.

Q. You mean that you always fish inshore there?—A. Yes.

Q. Then the mackerel do go inshore there?—A. Yes; on the ledges, which are round these islands.

Q. According to your idea this is the only place in the bay where mackerel do go inshore to any extent?—A. I think that they do so more at the Magdalen Islands than elsewhere in the bay. I was never fishing anywhere else in the bay inshore.

Q. I then understand you to say that you never fished inshore anywhere in the Gulf of St. Lawrence except at the Magdalen Islands?—A. O, yes; I stated in my evidence in chief, that I fished inshore at Margaree and caught 200 barrels there.

Q. Did you not say just now that you had fished inshore nowhere in the gulf save at the Magdalen Islands?—A. You misunderstood me.

Q. Then you have fished inshore elsewhere in the bay?—A. We fished and caught a few mackerel off Souris at another time, and we took a large quantity of mackerel off Magaree—200 barrels.

Q. That is off Cape Breton?—A. Yes.

Q. And those you caught close inshore?—A. Yes.

Q. Although you admit that it is windier around the Magdalen Islands than it is elsewhere in the gulf, you still think that it is safer for vessels to be there than anywhere else in the gulf?—A. Yes.

Q. How do you account for that?—A. I was in the big gale of 1851 in the bay—in the bight of Prince Edward Island—and we then nearly lost the vessel and all hands; but if we had been at the time at the Magdalen Islands we could have hoisted the jib in no time and shifted around the islands and come to anchor.

Q. Was not this gale of 1851 an exceptional circumstance?—A. Yes.

Q. Do you think that you would have been safe during that gale at the Magdalen Islands?—A. Yes; we could have laid under the lee of the islands.

Q. You think that you would there have been safe?—A. Yes; because the wind blew east all the time.

Q. Are not the Magdalen Islands low-lying islands, over which the wind blows?—A. They make a breakwater for us.

Q. Would it have been possible for you to have lain anywhere about the Magdalen Islands during that gale without being lost?—A. It would have been safe for us to have lain there.

Q. You think so?—A. Certainly.

Q. Which way was the wind blowing at the time?—A. About straight east at first; it then turned to the northeast and afterward to the northwest.

Q. Where about the Magdalen Islands would you have lain during that storm?—A. Under Cow Head, on the southwest part of the islands.

Q. Is that a high bluff?—A. It is quite high; it is high enough to afford shelter.

Q. And you still state that in your opinion the Magdalen Islands are safer than any other part of the gulf; is that the general opinion of navigators in the Gulf of St. Lawrence, or are you alone of that opinion?—A. I do not know about that, but this would be my opinion, if I was in the bay—fishing I would prefer the Magdalen Islands to Prince Edward Island for fishing.

Q. Is that the general opinion?—A. I say I do not know of anybody else's opinion, but it is mine.

Q. You have surely heard opinions regarding it. Is it not the general opinion that the neighborhood of the Magdalen Islands is a very dangerous place?—A. As I said before, it is windier around these islands than in other parts of the gulf, but as regards the question of safety, fishermen would rather fish there than in any other part of the bay.

Q. Is it not the general opinion that the neighborhood of these islands is very unsafe?—A. The general opinion is that the bight of Prince Edward Island is the worst part of the bay, because if a northeast gale comes on while you are there you cannot get out.

Q. Are there not around the island Cascumpeque, Souris, and Georgetown Harbors?—A. I was never in Cascumpeque Harbor, but I was in Malpeque Harbor once, and I was glad to get out. The water was quite shoal.

Q. And you were never in Cascumpeque Harbor or Souris Harbor?—A. I was in Souris Harbor.

Q. Can you not run around the cape to the other side of the island and get under the lee as well as about the Magdalen Islands?—A. Yes, if you are fishing up that way, but I was fishing in the bight of the island.

Q. Why did you not run into one of the harbors?—A. The water is too shoal.

Q. Is Malpeque Harbor too shoal?—A. We think so in the event of a northeast storm.

Q. You state that Prince Edward Island is a much more dangerous place to fish at than the Magdalen Islands?—A. I do.

Q. And you state that this is the general opinion of all fishermen?—A. I do not know about that. I never inquired about it, but all the men I ever heard talk about it say they would rather fish at the Magdalen Islands than in any other part of the Bay of St. Lawrence.

Q. Why?—A. Because it is much easier to make shelter there than anywhere else in the gulf.

Q. Then you have talked over the matter with others?—A. That is my opinion too.

Q. You have then talked this matter over with other people?—A. No.

Q. How then did they appear to state that?—A. In common conversation. One might ask where they preferred to fish in the bay, and they would reply that they would rather fish at the Magdalen Islands than anywhere else.

Q. Why?—A. Because we can make shelter and make slick there quicker than anywhere else in the bay—to make slick is to make smooth water.

Q. And you can get smooth water at any time around the Magdalen Islands?—A. As a rule we can. We can easily make slick there.

Q. And if you are fishing around Cape North, Prince Edward Island, can you not do the same thing?—A. Yes; but I never fished there a great deal for mackerel.

Q. And yet you say that it is a more dangerous fishing place than the Magdalen Islands?—A. I have fished in the bight of the island.

Q. I am speaking of North Cape or East Point?—A. Yes; you can make slick splendidly under West Cape.

Q. Where is West Cape?—A. It is west of North Cape.

Q. You can get shelter there easily enough?—A. Yes; and splendid shelter. I would have been glad to have reached that point during the great gale of 1851.

Q. Why do you say that this is a dangerous place if you can get smooth water there?—A. When we speak of the dangers incurred in mackerel fishing here, we refer to the bight of the island. My experience has been acquired there.

Q. And the only experience you have had there has been in the bight of the island; are there no harbors in the bight of the island?—A. Yes; there are Malpeque, Cascumpeque, and New London.

Q. And Georgetown?—A. That is on the south side of the island.

Q. You never went into any of these harbors except Malpeque?—A. Yes; I was in Souris.

Q. And you never were at New London or Cascumpeque?—A. That year we were not acquainted with them.

Q. Were you ever there when you were acquainted with them?—A. No; I never was around the island but one year.

Q. Why, then, do you give it as your experience that this is a dangerous place?—A. As a man who is president of an insurance company insuring Cape Ann vessels and that sort of thing, I have to keep myself posted on these matters.

Q. You do not then speak from your own experience?—A. That year's experience was enough for me. I have had vessels there during the last ten years.

Q. A great number of vessels were wrecked in the bay the year that you were there?—A. Yes.

Q. At the Magdalen Islands, as well as at Prince Edward Island?—A. I do not know of any having been then wrecked at the Magdalen Islands.

Q. When did that gale take place?—A. On the 2d of October, 1851.

Q. Was it not the reason why no vessels were then wrecked at the Magdalen Islands, because there were no vessels there at that time owing to the lateness of the season?—A. They fish at the Magdalen Islands as late as they do anywhere else in the gulf.

Q. Were you not at the Magdalen Islands that year?—A. No; not that trip, but I was there during the spring trip.

Q. When did you go there, in the spring?—A. About the 15th of June.

Q. When did you get your fare?—A. Along in August.

Q. Did you go home or transship?—A. We went home.

Q. And when did you get back to the gulf?—A. About the 5th of September.

Q. And on that occasion you did not go straight back to the Magdalen Islands?—A. No; we did not go there at all on the second trip.

Q. You made a good fare at the Magdalen Islands on your first trip?—A. We did not catch any fish there on our first trip, in 1851.

Q. Did you not say that you went to the Magdalen Islands in the spring of the year, got a trip, and went back in August?—A. No; I said that we went there on our first trip; we just touched at this place, and then went over to Bank Bradley.

Q. You could not get any fish at the Magdalen Islands on your first trip?—A. Yes; we only touched there.

Q. Have you not to pass Bank Bradley when you go to these islands?—A. No, nor anywhere nigh it. We went right straight there from the Gut of Canso.

Q. Did you go to the Magdalen Islands to fish?—A. We went there to look for fish.

Q. Did you try there for fish?—A. I think that we did.

Q. Have you any doubt about it?—A. I suppose that we did try there. We were on a fishing trip.

Q. Are you not sure about it?—A. This took place a good many years ago.

Q. Do you really forget whether you tried there or not?—A. I do seem to forget whether we did or not. We were only there one day.

Q. You went there to fish?—A. Yes.

Q. Would you have left the place if you had found fish there?—A. No.

Q. Have you any doubt as to the fish being there?—A. I think that we tried there, and we could not find any, I have no doubt.

Q. You only staid one day there?—A. Yes; I think so.

Q. Have you any doubt about it? If you have forgotten, say so.—A. I do forget about the matter.

Q. Do you forget where you caught the fish at the Magdalen Islands?—A. I know that we did not catch any fish there.

Q. You recollect that?—A. Yes.

Q. But you do not recollect how long you staid there?—A. I recollect that we staid there a day or two.

Q. You got no fish there, and then you went to Bank Bradley?—A. Yes.

Q. Did you get a full fare then?—A. We fished on Bank Bradley a spell, and then went north of Gaspé.

Q. How long did you fish on Bank Bradley?—A. I think until the middle of July.

Q. When did you go to the Gulf of St. Lawrence?—A. About the middle of June.

Q. Then you were fishing on Bank Bradley for a month?—A. Very nearly—yes.

Q. Is Bank Bradley a large Bank?—A. I was never fishing there when a man. At the time I was merely a boy; I was 21 years old.

Q. Whether a boy or a man, do you mean to say that you forget all about it?—A. I forget the particulars of the voyage.

Q. Can you tell me how many fish you caught, then, on Bank Bradley?—A. No; I could not.

Q. In answer to Mr. Trescott, you gave us to understand that you got your fare there?—A. We also went up to Gaspé.

Q. You do not know how much you got on Bank Bradley?—A. No.

Q. Did you go to the Bay of Chaleurs?—A. I was never there in my life.

Q. Did you fish close to the shore off the Gaspé coast?—A. We kept outside the limits, because a cutter was about there at the time.

Q. You wanted to go inshore, but you were afraid to do so?—A. No; there were no fish inshore.

Q. Why did you say that you kept outside the limits because a cutter was there?—A. I said that we did not fish inshore because a cutter was there, and we did not care about being arrested.

Q. And you knew that there were no fish inshore?—A. We never tried for fish inshore. There might have been fish in there for all I know.

Q. Why did you say just now that you did not go in because there were no fish there?—A. Because we never tried there, and consequently we did not know that there were fish there.

Q. And you did not try there because you were afraid of the cutter?—A. That is it exactly.

Q. Did you see vessels fishing in there when you were there?—A. No.

Q. There were no fishing-vessels, or boats, or anything of that kind there?—A. I never saw any.

Q. Where was this?—A. I think that it was some fifty or sixty miles above Gaspé.

Q. Then you must have been in the St. Lawrence River?—A. We were at the mouth of it.

Q. How far up the river did you go? Were you as far up as Point des Monts?—A. I do not remember.

Q. How far up the St. Lawrence did you go?—A. Fifty or sixty miles above Gaspé, I think.

Q. And all the time you kept from fifteen to sixteen miles off shore?—A. We were from ten to fifteen miles off.

Q. You were never nearer the shore than that?—A. We kept off shore all the time.

Q. Did you get a full fare up there?—A. No; I think that we got somewhere about 150 barrels there; and we obtained 400 barrels before we went home.

Q. When did you finish the trip?—A. I think somewhere about the 20th of August.

Q. When did you come back to the gulf?—A. I think we returned to the bay on the 5th of September.

Q. You did not go to the Magdalen Islands at all on that trip?—A. No.

Q. You never fished there before?—A. No.

Q. What part of the island did you fish?—A. From Malpeque to East Point. The balance we caught over on the Cape Breton side.

Q. Close inshore?—A. No; 10 or 15 miles off.

Q. You never tried the inshore fishery at all at the island, and whether it was good or bad you do not know?—A. No.

Q. The second trip you got 600 barrels?—A. Yes.

Q. Why did you take those off shore?—A. We took 200 barrels on the Cape Breton side, off Margaree. Those were inshore.

Q. Did you get them close inshore?—A. Yes.

Q. There were no cutters about to disturb you then?—A. Yes, but we would clear out.

Q. Could you not catch them abroad off Margaree?—A. No; they were inshore.

Q. You swear that you did not get them inshore at Prince Edward Island at all?—A. No.

Q. At Margaree you did?—A. Yes.

Q. The mackerel, as a rule, keep inshore?—A. They do at Magdalen Islands and along Cape Breton they do.

Q. Do not they along Prince Edward Island as well?—A. I never found any inshore there around the island.

Q. Did you never fish there?—A. That fall. That was all.

Q. Did you fish inshore? Didn't you tell me just now you didn't? Why do you say you didn't get them?—A. We found plenty off shore.

Q. Why did you say you could not get them inshore if you never were there? I can understand your saying you did not get them, but I do not understand how you say you could not if you were never there. What do you mean by saying you could not get them?—A. I did not say so.

Q. In point of fact, you never did try?—A. No; not around the island.

Q. At what time did you ever fish inshore at Prince Edward Island?—A. 1855, in the month of September, I caught some mackerel off Souris.

Q. Was that the year you took a license?—A. No.

Q. When was the time you had a vessel in the gulf before '67—'65, I think?—A. I was doing business then.

Q. You fitted out vessels in 1865. What were the names of the vessels you fitted out?—A. I fitted out two vessels in 1865, the Samuel Ober and the Antelope.

Q. Did either go in the gulf?—A. The Samuel Ober went into the gulf cod-fishing.

Q. Did she fish inshore at all?—A. No.

Q. Did she fish for mackerel at all?—A. Just a few for bait; that is all.

Q. Then you sent them in without bait?—A. Yes.

Q. Where did they catch it?—A. With nets.

Q. In what part of the bay?—A. Wherever they fished.

Q. Where did they fish?—A. In the spring at the Magdalens.

Q. Where did they on that occasion take their bait?—A. They took bait every night; they set nets.

Q. Do you think that is an answer to the question where they took it?—A. When they were fishing at the Magdalens they took it there; when they were at Bradley they took it there; and they took it wherever they were fishing.

Q. I ask you where they took their bait, and you say that if they were fishing at one place they took it there, and if they were fishing at another place they took it there. I ask you where, as a matter of fact, did they take it?—A. Wherever they fished.

Q. Where did they fish?—A. At the Magdalens, off Bradley and Orphan.

Q. For codfish?—A. Yes.

Q. You sent them away without any bait at all?—A. Yes.

Q. What bait did they catch?—A. Herring.

Q. With nets?—A. Yes.

Q. In 1867 you sent a vessel in again?—A. Yes.

Q. Did she take bait?—A. Yes.

Q. Were you in her?—A. No, I was home.

Q. Where did she fish?—A. About the Cape Breton shore.

Q. Why did she not go to the Magdalens right off? That is your favorite grounds.—A. I do not know. I was not master.

Q. Did you give no directions to the master?—A. No.

Q. You gave him a roving commission to go where he liked?—A. Yes.

Q. And in fact he didn't go to the Magdalens?—A. No.

Q. You have no idea why he didn't go?—A. No.

Q. Are you serious about that, that you don't know why he didn't go?—A. I don't know anything about it. He steered his own ship.

Q. Was he a good captain, an experienced captain?—A. Yes.

Q. It never entered your head that he would not go because it was dangerous?—A. All that I looked out for was that he got a license.

Q. But a license would not save him from storms? It never struck you that he didn't go there because it was dangerous?—A. I didn't care where he went, as long as he got plenty of fish.

Q. Did he get a full fare?—A. He got 80 barrels.

Q. How long was she doing it?—A. Six weeks.

Q. How many barrels would she carry?—A. About 400 barrels.

Q. Then he started when he got 80 barrels and didn't go to the Magdalens? Didn't you ask him why he didn't go to the Magdalens, and whether he went to the bight of the Island? You didn't ask him at all? Do you believe he stayed all around the shores of Cape Breton?—A. I think he did.

Q. He told you so?—A. I do not know what conversation he had.

Q. How is it possible that you can say you think he stayed around those shores? Are you serious in saying that he stayed around there?—A. All I know is that he went fishing and returned. I heard him tell about being around Cape Breton.

Q. He came back with about one-third of a cargo, and you never asked him why he didn't leave the Cape Breton shores? How far is it from Cape Breton to the Magdalen Islands?—A. About 50 miles, I think.

Q. He could run over there in a short time?—A. In a few hours.

Q. And you never took the pains to inquire why he didn't go? Did you ever ask him why he didn't fish around Prince Edward Island?—A. I don't know, I am sure.

Q. Well, was he communicative enough to tell you he got those eighty barrels inshore, within three miles? Did he tell you that?—A. I don't know whether he did or not. I know he had a license.

Q. Is the inshore fishery considered a good fishery upon Cape Breton and the island?—A. The inshore fishery around Cape Breton is good. They catch more there than anywhere.

Q. How about the island? Is it considered a good fishery?—A. I never knew any vessels get any great hauls inshore.

Q. Do you consider the inshore fishery around Prince Edward Island good?—A. Not within three miles.

Q. You think it is worth nothing?—A. Nothing: it is worthless.

Q. In 1855 was it worth anything?—A. No; there were just a few.

Q. Immediately after the Reciprocity Treaty it became useless, did it?—A. I don't know; I never was catching any mackerel, only those 20 barrels.

Q. You never were on the island yourself at all, fishing, except in 1851?—A. That is all. In 1855 I fished awhile in there.

Q. Where then?—A. Off Souris.

Q. Close in?—A. Three or four miles. I suppose it was within the limits.

Q. If you were three or four miles you were not within the limits.—A. We were close in.

Q. Do you mean within three miles?—A. Yes.

Q. Although you knew the inshore fishing was no good, you took out a license and paid \$50 odd for it?—A. \$81.

Q. Although you thought it was worth nothing. That is a curious thing, is it not?—A. Well, I had a new vessel, worth \$11,000, and I didn't care to lose her. She might go inshore and get caught, and I might have a lawsuit, and so it might cost more than she was worth to get her back.

Q. Then you paid not because you wanted to fish inshore, but because you were afraid the cruisers would catch you, although fishing outside?—A. That is the very idea.

Q. But you paid \$81 for the privilege of fishing inshore, although you knew it was worth nothing?—A. I instructed the captain to buy a license, and not to risk the vessel in there.

Q. You had a pretty good reason for that. You supposed he would probably fish inshore?—A. I didn't know whether he would fish inshore or not. I didn't ask him, and I didn't know whether he fished in there or not. All I knew was that he fished around the shores of Cape Breton and Prince Edward Island.

Q. Did you ever send a vessel in since?—A. Not for mackerel.

Q. You stated in answer to Mr. Trescot that you would rather have the duties put on and be excluded from British waters; do you mean that?—A. I do.

Q. If that is the case, how do you account for it that so many American fishermen went into the gulf and ran the risk of being captured, if they are all of your opinion?—A. I do not know whether I take your meaning.

(Question repeated.) Well.

Q. You say you would rather have the duty paid; you think you would make more money; you are speaking as a fisherman?—A. Yes.

Q. You would have a better market for your fish? Under the present system the consumer gets his fish cheaper, does he not? You would make the consumer pay that \$200 duty. You would sell your fish \$200 higher?—A. Yes.

Mr. TRESCOT. That is political economy.

Mr. THOMSON. Why did you ask him?

Mr. TRESCOT. I asked him simply which system he would prefer.

Mr. THOMSON. I am asking him why.

Q. And you say the reason is that you would get so much money in your pocket at the expense of the people that eat fish. Is not that the whole story?—A. Certainly.

Q. So that if Mr. Trescot lived in the same place and was partial to mackerel you would make him pay more and he would have to lose it? Now, you spoke about getting bait for codfish on you own shores. Don't

you know that the Gloucester fishermen run down to Grand Mahan to get bait in the spring and other seasons as well?—A. I do know it.

Q. Don't you know that the fishermen of your coast also run to the coast of Nova Scotia and get bait, ice, &c., for cod-fishing?—A. I do.

Q. Why do they not get it on your own shores?—A. It is handier to their fishing grounds.

Q. Isn't it handy to get it before they leave? Why do they not do so?—A. The vessels I have reference to were fishing on our own coasts.

Q. Have you plenty of bait on your own coast, squid and all that?—A. Yes.

Q. Then the story of the bluefish coming down and eating up all the bait and killing the squid is nonsense?—A. They are there in the spring and one school in September.

Q. In the mean time, where do the bluefish get their food? We heard yesterday that they were there depopulating the waters altogether?—A. The bluefish drive the squid inshore. That is where we get the greater part of it.

Q. The squid are driven in by the bluefish?—A. Yes. Well, they come in there and they have always come in since I was a boy.

Q. The bluefish come after them?—A. Yes.

Q. And eat them?—A. I bet they do.

Q. They leave enough for you to get bait? Now, are you serious about that?—A. Yes. They come in, and the first thing that you know the squid will be all gone.

Q. How long do they stay?—A. Sometimes a fortnight and sometimes a month.

Q. I thought you said the first thing you knew they were gone? What do you mean by that if they stay a month?—A. They are there twenty-nine days, and the first thing you know they are gone.

Q. Now you state that they stay a month?—A. Sometimes a month and sometimes a fortnight. Sometimes they stay all summer.

Q. What are the bluefish doing?—A. Eating them.

Q. While the bluefish are doing this are you getting bait?—A. Some years we are and some we are not.

Q. You don't get squid every year?—A. No.

Q. What else?—A. We can go down the coast of Maine and get pogies.

Q. Do you use pogies for codfish?—A. Yes; it is the best bait.

Q. Is it the best bait?—A. No; one of the best. Squid is the best.

Q. What better bait is there than pogies?—A. The squid and mackerel are better.

Q. And the herring?—A. They are equally good.

Q. Why do you say that pogy is one of the best baits when you admit that herring is equally good, and that two others, the squid and mackerel, are better?—A. Well, for the Georges the pogies are best. They keep longer in ice.

Q. You cannot fish with salt bait to any practical purpose? Can you, practically, for codfish use anything else?—A. Salt clams and slivers. Going on the Banks fishing, most of our vessels carry clams; some carry slivers.

Q. Do you use salt bait for any other purpose than trawling?—A. Pogy bait? We grind it up for mackerel-bait.

Q. I am speaking of cod-fishing. Do you use it for any other purpose than trawling?—A. Salt bait? I do not understand your question.

Q. Do you use salt bait for any other kind of fishing than trawling?—A. We use it hand-lining also.

Q. Which do you use it for most, hand-lining or trawling?—A. That depends on the way we fish.

Q. Is salt bait just as good as fresh?—A. Fresh bait is the best.

Q. Is it not more generally used?—A. When you can get it.

Q. If you can, it is much better than salt?—A. Yes.

Q. Practically, the salt bait cannot compete with the fresh bait?—A. No; it is not as good as fresh.

Q. Don't the vessels that run over here from the United States, and get bait from Nova Scotia, use fresh bait altogether?—A. Yes; the Cape Ann vessels do.

Q. Don't they from Gloucester as well?—A. The Gloucester vessels use fresh bait altogether.

Q. They run up the bay of Fundy to Grand Manan?—A. Yes.

Q. They don't care for salt bait?—A. No. They have a different way of fishing from our vessels.

Q. How different?—A. They make shorter trips on the whole. Our vessels make a long trip. They are full of salt bait and provisions, and calculate to see no port until they return again.

Q. Don't the Cape Ann vessels do that?—A. Most of them make short trips, I think.

Q. What do you mean by that?—A. They get their fish and go out and use it, and then come back for more. They get a good deal of bait at Sandy Point.

Q. Where is that?—A. It is at Cape Cod.

Q. That is the first trip, I suppose. Do they come back after they use that or get it elsewhere? They use that up?—A. Yes; the weirs are taken up about the 1st of June.

Q. Then where do they go to get bait?—A. They get a great deal of bait on the coast of Maine—pogies.

Q. Do they come back to the coast of Maine afterward to get more bait, after they run out?—A. I don't think they do—those at the Grand Bank.

Q. Where do they go to get bait? Don't they go to the Newfoundland coast?—A. I think they do.

Q. Do you know they do?—A. I never had any vessels but one do it.

Q. Don't you know from people telling you?—A. I think they do.

Q. That is a considerable privilege, is it not, to be able to come into our waters to get bait without going all the way back to the coast of Maine or Massachusetts? What do you say to that? Say it is not if you like.—A. I don't know. I never had any vessel that went. I could not tell except about my own.

Q. You never heard the people that are engaged in the business say it was a privilege?—A. No; I never heard the Cape Ann people. I never had any dealings with it, and do not know anything about it.

Q. As a practical fisherman, do you know or do you believe it to be a privilege?—A. It is no privilege to us.

Q. If you don't engage in the fisheries it is no privilege, but for those engaged in the fisheries, is it not? Say that it is not or say that it is.—A. The privilege would be the result arising from it.

Q. I do not care in what light you consider it. I want to know whether you consider it a privilege or not?—A. I do not know. I never had any vessels do it.

Q. As a practical fisherman, I again ask you to give me an answer, if you will, or decline to say whether you do not consider it a privilege for

these vessels to be able to land on the coast of Nova Scotia, Newfoundland, or Cape Breton to get bait and go back?—A. I have known vessels come down and spend a month and not get bait and then go back.

Q. Is that any answer to my question?—A. I cannot say whether it is any privilege or not. I do not know.

Q. Can you swear that you have no opinion, either? That is the question I put.—A. I have never formed any opinion about it.

Q. And you won't form one now for me, will you? I suppose it would not take any length of time. Suppose you sit down and form an opinion?—A. I do not form opinions without evidence to show me which way to decide.

Q. In point of fact, then, I understand you to swear that you have no facts before you upon which you can form an opinion and that you have formed none?—A. I have none, as far as the Cape Ann fishermen are concerned, that I am interested in.

Q. As far as your fishermen are concerned, they do not go there?—A. Where?

Q. Do they use this privilege—I mean your own vessels?—A. No, well, they go to Newfoundland sometimes.

Q. Is that a privilege? Perhaps you have formed an opinion about that?—A. I never had but one vessel go in, and that was disastrous to me.

Q. Was it in consequence of that privilege that she met with disaster?—A. She was out late and didn't come in until Christmas. If she —

Mr. THOMSON proceeds to put a question.

Mr. TRESCOT. Let him finish his answer.

Mr. THOMSON. I didn't ask him about vessels going in. He answered my question and said he had only one vessel that went in and that was disastrous. I asked him if he considered that disaster overtook him because of this privilege.

Mr. FOSTER. He was proceeding to answer that very question

By Mr. Thomson :

Q. Do you think this disaster overtook you because of this privilege?—A. No, certainly, because she would have got her bait and taken her fish and come home if the squid had been there.

Q. You wish us to understand that if you had not been tempted by this privilege your vessel would not have suffered the loss?—A. Yes.

Q. Do you say for that reason that this privilege is a mere deception and a snare?—A. I think as far as Provincetown is concerned that it is worthless.

Q. Why is it worthless; because they send no vessels there?—A. Because the vessels that go with salt bait return quick and with full fares.

Q. Then the Provincetown vessels don't avail themselves of this privilege?—A. They do some.

Q. Those that go with salt bait?—A. No.

Q. Didn't you tell me just now it was worthless, because they went with salt bait and returned with full fares?—A. I do say that.

Q. Don't you want the Commissioners to understand that all the Provincetown vessels go with salt bait?—A. I wish them to understand that those that go with salt bait make better voyages and return with better fares.

Q. Do any Provincetown vessels go for fresh bait?—A. They carry fresh bait sometimes leaving Provincetown.

Q. Do they avail themselves of the privilege of getting fresh bait elsewhere?—A. There have been some in this year.

Q. These are Provincetown vessels?—A. Yes.

Q. You stated just now that the privilege was entirely worthless?—A. If they had staid out they would do better.

Q. How do you know?—A. Those that did it did better.

Q. Those that went in did worse than those that staid out?—A. Yes.

Q. And that is the reason you think it is worthless?—A. Yes.

Q. How did they happen to do worse. Is the fresh bait poorer than the salt?—A. No; but it uses up so much time going for it.

Q. How long does it take them?—A. 24 hours.

Q. Then you deliberately state in consequence of going in and losing 24 hours they do worse than those that stay out and fish with salt bait?—Well, those vessels that do—

Q. You cannot answer. You say those that trust to salt bait are far better off than these that trust to fresh bait?—A. Yes, that is my opinion—as far as Provincetown is concerned.

Q. You do not speak for Cape Ann?—A. No.

Q. Do you think they value the privilege?—A. I don't know how they value it.

Q. You haven't made up your mind?—A. No.

Q. You know about your fleet going to Grand Manan to get bait?—A. Yes.

Q. You know that?—A. I have seen them. I know they go there.

Q. Did you ever go yourself?—A. No.

Q. Do you know what kinds of fishing grounds Grand Manan and Deer Island are?—A. No.

Q. Have you ever heard about it?—A. Yes; because we insure them sometimes.

Q. Do you know whether there is a large fishery carried on there?—A. There is considerable. That is all I know.

Q. In reference to your own waters, there are not a great many British vessels fishing in your waters?—A. I never saw them.

Q. The mackerel that are caught by the Americans themselves are caught ten or fifteen miles from land?—A. They catch them right in Provincetown Harbor. There are mackerel on the coast.

Q. Well, then, your idea is that the mackerel are inshore?—A. Sometimes.

Q. I mean as a rule?—A. Twenty-five years ago there was mackerel in Provincetown Harbor.

Q. Is there now?—A. I was going on to tell you the difference. This year there is mackerel there again. It is twenty-five years since I saw them there.

Q. Taking the last three or four years, haven't the mackerel caught off the American coast been caught ten or fifteen miles off in the deep sea, with purse seines?—A. Yes, most of them are caught off.

Q. The bluefish—you will agree with the gentleman that was examined yesterday that they have come and destroyed your fisheries, or ruined them?—A. They drive away the fish wherever they go.

Q. They kill the mackerel?—A. Yes.

Q. You never heard of the bluefish in British waters?

Mr. Whiteway proposed to put some questions to the witness.

Mr. Foster raised the question as to his right to cross-examine, Mr. Thomson having, on behalf of the British Government, already done so. After a brief discussion the cross-examination proceeded.

By Mr. Whiteway:

Q. How many years is it since you fished?—A. Since '55 I have not fished.

Q. Was that the year you were on the Grand Bank?—A. I was not on the Grand Bank in my life.

Q. Were you ever on the coast of Newfoundland?—A. Never.

Q. Are you aware that there are excellent harbors on that coast, unsurpassed anywhere?—A. I don't know anything about it.

Q. You are not capable of expressing an opinion. You have one vessel fishing on the Banks and one in the Gulf of St. Lawrence?—A. I have none on the Banks.

Q. Have you ever had?—A. 1874 was the last one.

Q. From 1865 to 1874 she went. Do I understand you that she fished continuously from 1865 to 1874 every year—one vessel?—A. No. I have had as high as four vessels.

Q. You had vessels fishing at the Grand Bank from 1865 to 1874?—A. Yes.

Q. Where, during that time, did these vessels obtain their bait?—A. They carried it with them from Provincetown.

Q. What bait was it?—A. It was salt clams and slivers.

Q. Entirely? What do you mean by slivers?—A. The side of a porgy fish cut off.

Q. Then salt clams and porgy slivers are the only bait you use?—A. That was the bait we generally carried.

Q. Did they ever get squid upon the Banks?—A. Yes.

Q. Did they depend upon this squid principally for their bait?—A. No, sir; they depended upon the bait they carried.

Q. Tell me the average quantity of bait taken by each vessel?—A. A vessel carrying 175 hogsheads of salt would carry 50 barrels of bait.

Q. Your vessels averaged between 65 and 80 tons?—A. Yes.

Q. These would take 50 barrels of bait?—A. Yes.

Q. Well, now, you had one vessel in 1874 that went into the Newfoundland coast. What was her name?—A. The Antelope.

Q. Was she lost there?—A. No.

Q. What was the name of the captain?—A. Alexander Lamy. He belonged to the Gut of Canso.

Q. Did she take salt bait?—A. I think not. She took no bait.

Q. Was that the only vessel?—A. Yes, that was the only one on the Bank.

Q. In 1873 did your vessel take any salt bait?—A. Yes.

Q. The first year they did not was 1874?—A. Yes, only one vessel.

Q. Now proceeding from Provincetown, where did she go direct?—A. To the Banks.

Q. How long did she remain there?—A. I don't know what time. Some time in August she went in.

Q. What time did she leave Provincetown?—A. Some time in May.

Q. She went straight to the Banks and remained until August?—A.

No. She went into the Gut of Canso. The captain belonged there.

Q. When did she arrive in the Gut of Canso?—A. In a week, I suppose, after leaving Provincetown.

Q. From this she went to the Bank?—A. Yes.

Q. There she remained until August?—A. Yes.

Q. Then she went into Newfoundland?—A. Yes.

Q. What was she doing between the time she left the Gut of Canso and August?—A. Fishing.

Q. What with?—A. With small codfish and halibut.

Q. Then she didn't get her full fare with that bait?—A. No. She went in and got salt squids.

Q. What quantity had she taken with that bait up to the month of August?—A. Four hundred quintals.

Q. Why didn't she continue fishing dependent upon that bait?—A. He thought he could do better going for fresh bait.

Q. But that was fresh bait, was it not?—A. Yes.

Q. Didn't he take any bait with him from the Gut of Canso?—A. I think not.

Q. Do you undertake to say he did not?—A. I know he did not. I am certain.

Q. You mean to say that a vessel proceeded from the Gut of Canso out to the Grand Bank without any bait, depending upon small codfish and halibut?—A. She might have a barrel or two when she started.

Q. Is not that an isolated case? Do you mean to say it is a common thing for them to go out depending upon bait out upon the Banks, or that it was at that time?—A. How do I understand you?

Q. Is that correct, what you stated, that they always went out depending upon salt bait? You stated that those that went out with salt bait always got their trips. We understand you now to say that some of them went out supplied with salt bait 50 barrels per vessel, and that some went depending upon the small codfish and halibut on the Banks?—A. Precisely.

Q. What proportion of these vessels were supplied with salt bait, and what proportion were depending upon the small codfish and halibut?—A. I could not say.

Q. Half of them?—A. I do not know how many.

Q. Then, if a witness stated here that all the vessels that went into the Banks were supplied with salt bait up to 1873, he would not be stating what you believe to be correct?—A. I do not know anything further than I said before. I know this vessel went in 1874.

Q. Now, are you aware that a large number of vessels during the last three or four years have gone on to the coast and obtained bait for the Grand Banks?—A. Yes.

Q. I believe the numbers have increased every year; is not that the case?—A. I think it is.

Q. Well, do you think it would be very injurious in fact for them to enter?—A. That is my opinion.

Q. Well, now, has it never struck you as very singular that such a number of vessels should go in, and that every year the number should increase, if it were so very injurious to those vessels?—A. Well, if I had vessels going to the Banks I should not allow them to go in for bait.

Q. Does it not strike you as being very singular that those vessels increase in numbers every year if the effect is so injurious and prejudicial?—A. I don't know how to answer that question.

Q. You cannot answer that question; are you the agent of any vessel there in Provincetown?—A. Yes.

Q. Besides your own, I mean?—A. No.

Q. You know Captain Atwood who was here yesterday?—A. Yes.

Q. He is one who is a high authority in Provincetown on the subject of the fisheries, is he not?—A. Some.

Q. Is not he a man whose opinions relative to the subject of the fisheries are regarded as important? Is he not in fact regarded as an oracle?—A. He may be scientifically, but not practically, more than the rest.

(Question repeated.)—A. He has a great many theories and opinions of his own, and his opinions are very good.

Q. The people have faith in those opinions?—A. Yes.

Q. Is that the case?—A. Yes.

Q. Now this vessel of yours, you say, went into Newfoundland for bait in August; are you aware to what place?—A. St. Peter's, I think, or St. Pierre, I believe it is.

Q. That is not in Newfoundland; didn't you know that?—A. I think it is all Newfoundland down there.

Q. You say your vessel went into St. Peter's?—A. I suppose so. I don't know whether it was St. Peter's or St. John's. It is all the same to me whether it is St. Peter's or St. John's. I felt provoked enough that he was there.

Q. As a matter of fact you say he went into St. Peter's?—A. I could not say whether it was St. Peter's or St. John's.

Q. You have said it was. Now recollect.—A. Well, I could not say. I would not swear. I had other business to attend to.

Q. Will you swear that it was not St. Matthew's? Do you know whether there is a harbor called St. Matthew's?—A. No.

Q. Do you know whether he was on the coast of Newfoundland at all?—A. I know he was, because he had a draft.

Q. In whose favor?—A. It was drawn on me.

Q. Well, now, who was it in favor of?—A. I don't know who the party was.

Q. Do you recollect the amount?—A. No.

Q. Did you pay it?—A. I did.

Q. Did you get a bill of parcels of what he bought?—A. I did.

Q. Whose name was to the bill?—A. I don't recollect.

Q. What do you recollect about it? Let us know.—A. I recollect that he went in there and didn't get home until November.

Q. Where did he go in?—A. Some part of the British provinces—into Newfoundland.

Q. Will you undertake to swear it was Newfoundland now?—A. No, I would not say, because I do not remember. It was so small an affair that I paid no attention to it.

Q. You are president of an insurance society?—A. Yes.

Q. Is it mutual or has it a subscribed stock?—A. It has a capital stock of \$100,000.

Q. What was it I understood you to say with regard to increasing the rate of premium? You were going to put some additional clause in to increase the premium. As regards what place?—A. As regards any of these vessels leaving the Bank and going in for bait.

Q. You have not put that in the policy yet?—A. No.

Q. Although those vessels have been going in there for three or four years?—A. Some have. There are one or two cases where they have done it with certain vessels.

Q. In Provincetown?—A. Yes.

Q. Could you produce one of those policies?—A. I could not now.

Q. Do you remember what it was that was put in?—A. It was to prohibit them from going in for bait.

Q. Are you aware that all along the coast where those vessels go in there is not a single shoal or rock to bring a vessel up, and that they go directly into the harbor; that in reality the eastern coast of Newfoundland is the least dangerous coast we have?—A. I know I have to pay for one vessel.

Q. There was one vessel lost there during the last three or four years:

can you name any other vessel? During the four years that all the American fleet have been going in there has been only one vessel lost; that is the fact, I believe?—A. I do not know.

Q. You don't know any other?—A. I know of her because I was interested in her.

Q. You don't know any other? What fish do you take in the weirs you speak of?—A. Herrings, pogies, squid, and mackerel.

By Mr. Trescot:

Q. You have been asked a great deal about going into Newfoundland for bait. I understand you meant to say that as far as your experience goes—

Mr. WHITEWAY. We want to know what he said.

Mr. TRESCOT. I want to know what he meant, whether I understood him correctly.

Q. I understood you to say this, that as far as your experience went you would prefer, and those with whom you dealt would prefer, that your vessels should go to the Bank with salt bait and take their chance of getting a good return, rather than waste the time necessary to go into any of the ports of Newfoundland to buy fresh bait?—A. Yes.

Q. And that your opinion is gaining ground among them?—A. Yes.

Q. I have only one other question. I want to know whether I understood you correctly, because Mr. Thomson didn't seem to. I understood you to say that there was a general unwillingness on the part of those people you were familiar with to go within the three-mile limit, because the cost of their vessels was such that they didn't choose to run any risk, and that when they took licenses they took them to guard against any mistake?—A. Yes. We would pay \$81 rather than run the risk of losing our vessel.

No. 8.

HENRY COOK, of Provincetown, Mass., owner and fitter-out of vessels, called on behalf of the Government United States, sworn and examined.

By Mr. Foster:

Question. What is your age?—Answer. Sixty-four.

Q. You are the owner of vessels and the fitter-out of vessels for the Bank fisheries for cod, I believe?—A. Yes.

Q. In early life you were yourself a fisherman?—A. I was.

Q. How many years?—A. I think 35 years.

Q. Did you fish a little for mackerel?—A. Yes.

Q. But principally for codfish?—A. Principally.

Q. Did you ever make any mackereling trips to the Gulf of St. Lawrence?—A. I did once.

Q. What year was that?—A. In '41.

Q. How many barrels did you get, if you remember?—A. I got 68 barrels.

Q. I will come now to what has been your principal business. By the way, have you been interested in any mackerel vessels of late years?—A. I have had one that I had in the mackerel fishery in 1874.

Q. What was her name?—A. The Teresa D. Baker. She fished somewhere on the coast of the United States.

Q. In what way?—A. She fished with seine altogether.

Q. How many barrels did she get?—A. Somewhere in the neighborhood of 300.

Q. Did you come up to St. Peter's one season to live?—A. I did. I

calculated to carry on business there—to have my vessels come into St. Peter's and fish there.

Q. What St. Peter's do you refer to—where is it?—A. In Cape Breton.

Q. And you meant your cod fishermen to come there and procure fish there?—A. The first trip.

Q. Well, did you establish yourself there?—A. Yes.

Q. How long?—A. I staid there three months.

Q. Was the experiment profitable?—A. No.

Q. You abandoned it because it was not profitable?—A. Yes.

Q. How many cod-fishing vessels are you interested in now?—A. Seven.

Q. Where are they?—A. Three are home in the harbor, one in the gulf, and three are on the Grand Bank.

Q. Where is the one in the Bay of St. Lawrence?—A. She was fishing on Bank Bradley the last I knew anything of her.

Q. Now, what does she do about bait?—A. I think I gave her eighteen herring-nets heavily laden; hardly any corks. They sink about 5 fathoms.

Q. How are they used?—A. They put them out from the vessel, and tie one to another. They set generally about two-thirds, and keep one-third as a reserve in case of losing the others. They have these to fall back upon.

Q. There would be about twelve of these nets set to catch herring for bait?—A. Yes.

Q. Is that done on the cod-fishing grounds?—A. Altogether, that ever I have heard them say. I never was there.

Q. At Bradley?—A. Yes.

Q. Now, take your other vessels cod-fishing. You say three of them are on the bank and three have returned. State, if you please, how you provided them with bait this year.—A. I provided my hand-line vessels with sufficient bait to obtain a cargo.

Q. What bait was it?—A. The Gertrude is the one that arrived at Provincetown. She had 50 barrels of clams, at \$5. She came home with a full cargo of 1,300 quintals, and sold 18 barrels of clams on the bank.

Q. You provide them with clam-bait wholly for voyages on the Grand Bank?—A. Yes.

Q. Was that the first to make a full trip this year?—A. She was the first one in the harbor—about three weeks ahead of any other.

Q. Take the second vessel—the second one in.—A. Yes. That was the Arthur Clifford. She had 1,600 quintals. She carried 40 barrels of clams, with a trawl. She fished with the trawl. She went into Newfoundland twice; but she carried into Newfoundland when she first went in 1,000 quintals.

Q. Caught with salt clams?—A. Yes, and what he could get out of the fish.

Q. Now, her two trips to Newfoundland cost how much?—A. One hundred and forty-seven dollars, gold.

Q. Now, take the two vessels, the Gertrude that came in first and got 1,350 quintals with salt claims, and the Arthur Clifford that got 1,600 quintals and took 600 of them with squid at \$147 gold, which was the most profitable of the two voyages?—A. The most profitable was the one with the clam bait, the Gertrude.

Q. Take your other vessels, you say a third has come back?—A. Yes. She is the schooner S. E. Davis.

Q. What did she do?—A. She had 1,500 quintals or thereabouts. This is guess. She consumed all her salt, and I suppose she has 1,500

quintals. She carried 1,500 quintals into Newfoundland, taken with salt clams and what bait she obtained from the fish.

Q. Now, I notice on page 162 of the British Testimony an account of an American banker, the Winona, from Provincetown. Do you know anything about her?—A. I don't know anything about her any more than that she was reported as doing slim.

Q. Then I understand there is something about the Chanticleer; that is one of your vessels?—A. Yes.

Q. Did she go into Newfoundland for bait?—A. Not expressly. She was disabled. She lost her boat's crew.

Q. She went in in distress?—A. Yes.

Q. And the vessel was left at Newfoundland, was it?—A. Yes.

Q. There is another vessel, the Speedwell, said to be in.—A. She sprang a leak and went in.

Q. Then the Chanticleer, your vessel, went in in consequence of being disabled?—A. In consequence of the loss of the crew. What crew she had left was not good for much.

Q. Take the other vessels that are fishing for codfish on the Banks this year. Is there any other?—A. Yes, there is a schooner, the Lizzie W. Mattheson. She is hand-lining, and carried 120 barrels of clams. She had 2,200 quintals on the 19th August. She is a large vessel of 240 tons.

Q. How many would she take?—A. 4,000 quintals.

Q. Then she expects a cargo of 4,000 quintals, if she makes a full voyage?—A. Yes.

Q. She has taken, you say, with salt clams, 2,200 quintals?—A. 2,200 to 2,400 on the 19th August.

Q. Now, I will ask you whether you regard the opportunity of purchasing bait in Newfoundland as a valuable one to your fishermen?—A. It is not for me.

Q. Suppose they were cut off from buying bait and the traffic was interrupted, could they go and fish for bait in Newfoundland just as well, or would that be worse than buying it?—A. I would not have them go in if they could.

Q. What instructions do you give your captains with reference to going there?—A. Well, I instruct them in this way, that I should protest their drafts if they sent any drafts from Newfoundland this year. Last year they were in once or twice and never caught any fish.

Q. And your experience has been that you make a less profitable voyage if they go to Newfoundland than if they remain fishing with salt clams?—A. Certainly.

Q. How long, on an average, has it taken your vessels to go to Newfoundland and return to the cod-fishing ground, when they have tried the experiment; how much has the fishing been interrupted?—A. It takes an average of ten days. Last year the captain reported, when I talked to him so strongly about not going in; he told me the number of days, and I think it was 4 days. But this year it is more immoderate weather, and it will take longer.

Q. You think, on the average of the whole, it will take them 10 days?—A. They would lose 10 days' fishing.

Q. What other bait is procurable on the banks without going off the fishing-grounds?—A. They can get about half enough out of the fish.

Q. Have you ever known codfish itself to be cut up for bait?—A. I had a vessel year before last that caught all in that way.

Q. What vessel?—A. The Arthur Clifford. She was a trawler.

Q. You had a trawling-vessel year before last that cut up fish and got a full fare?—A. She caught 1,640 quintals.

Q. Do you know of any cod-fishing prosecuted within 3 miles of the shore in British waters?—A. I don't know of any.

Q. There has been some account given here of some young men from Provincetown who went to Magdalen Islands and established themselves on the shore. Do you know anything about that?—A. No. There are some that have gone there. I do not know what they are doing.

Q. You don't know the facts?—A. No.

Q. Do you know how long it takes to go over from where our cod-fishermen generally fish on the banks to St. Pierre, the French island?—A. There is no great difference between that and St. John's. It is very trifling. A vessel fishing on the southern part of the Bank would be likely to go into St. Pierre about as quick as from the northern part into St. John's. St. Peter's is something westward of St. John's, on the south coast of Newfoundland, and the Bank extends northeast and southwest, which would bring it about the same distance. It is just about 100 miles from where our fishermen fish on the Bank to St. John's.

By Mr. Whiteway:

Q. You say you have now seven vessels cod-fishing?—A. Yes.

Q. How long have you been carrying on the cod fishery?—A. Well, I commenced about twenty-five years ago, I think. I was engaged in the bay fishing mostly the first part.

Q. Your cod-fishing is principally in the gulf and on the Banks?—A. It is pretty much altogether on the Banks.

Q. Well, it is very profitable fishery, is it not?—A. Sometimes it is very profitable.

Q. Upon the whole, it is a very profitable business?—A. Well, I can't say it is a *very* profitable business. We make a living.

Q. A very good one?—A. We make a living. I never got rich; I never got independent.

Q. Provincetown is a very respectable town. It is principally built up by the bankers, is it not?—A. No, sir. Our whaling business, I think, brings more money than the bankers.

Q. Well, how long was it since your vessels first went into the British provinces, into Newfoundland, for fresh bait?—A. Well, I guess about three years ago.

Q. They have continued to go ever since?—A. Yes, they have been two years to my certain knowledge.

Q. Three years, then, they have gone?—A. I think it likely that they have, some of them; not before three years ago.

Q. You have spoken of those vessels—the Chanticleer, the Speedwell, the Lizzie W. Mattheson, the Arthur Clifford, the Gertrude, and the S. E. Davis—and you have given us an account of their voyages, and what has been realized as far as you have heard from them for the present year?—A. Yes.

Q. Can you give the results of the several voyages last year or the year before?—A. I could not; I haven't the figures. But there were three of them that got half fares—between 800 and 900 quintals.

Q. The three others—what about them?—A. The big one didn't go last year. I had five on the Banks last year. The other two did decently.

Q. Name them—name the five?—A. Well, take out Lizzie W. Mattheson and the big one; that leaves five.

Q. You take out Lizzie W. Mattheson and the Speedwell?—A. I had

nothing to do with the Speedwell. She was only spoken of as one of those that went in.

Q. She didn't belong to you?—A. No.

Q. Name the five then?—A. The Arthur Clifford, S. E. Davis, the Teresa D. Baker, the Chanticleer, and the Gertrude.

Q. Can you give me an account of what they did severally?—A. I haven't the figures.

Q. How many of them made full fares?—A. Teresa D. Baker consumed five hogsheads of salt. That was very nearly her full fare.

Q. Was she upon the coast to get bait?—A. I don't think she went in.

Q. Do you know whether she did or not?—A. I don't know. I say I think she did not.

Q. Never mind what you think. You say you don't know.—A. Well, if I told you I did not know, I would not be telling you all I know.

Q. Do you say more?—A. I say I think not.

Q. What about the other four?—A. The Arthur Clifford was in, and the S. E. Davis.

Q. What captain was it that told you it took him four days to go in and get bait, and come out again?—A. Captain McDonald, in the Arthur Clifford.

Q. Is that the only captain from whom you have heard how long it takes to go in for bait?—A. No, I have heard others.

Q. Of your own captains?—A. I had one that was three weeks, some years ago, in at St. Peter's.

Q. How many years ago was that?—A. Five years, I guess.

Q. Are you aware that St. Peter's is not part of Newfoundland, and is not under the jurisdiction of Newfoundland or of the British Government?—A. Yes; I knew it was French.

Q. Have other of your captains told you that it took them four days to go into the Newfoundland coast to get bait and come out?—A. Not that exact time.

Q. Then it is only from him you have the information as to the time it takes. Is that the case; is Captain McDonald the only man?—A. O, no; I have talked with other captains that don't belong to my vessels about the matter, and that was the reason why I didn't want my vessels to go in, because they took so much time.

Q. What others?—A. I have talked with some that belonged to my cousin's vessel, the Ella May, and several others.

Q. Give the captains' names.—A. Captain Mayhew.

Q. Was that the only one?—A. No; I suppose not. I have talked with the whole of them.

Q. How long did Mayhew say it took?—A. He said it took him a week to make the trip into Newfoundland and back.

Q. Is there any other?—A. Yes; I have talked with the whole of them. If I was to tell you the names of all it would take me the rest of the day.

Q. We will require to know the names of the others?—A. There was no particular time stated by many of them, but they found a good deal of fault with the going in for bait.

Q. Is there any other captain who told you the time it would take?—A. Yes; I can name a dozen.

Q. Name them.

Mr. DANA. You do not want these names.

Mr. WHITEWAY (to the witness). You say you can name them. Do you refuse to do so? If you do there is an end of it. Do you refuse to do so?—A. No; I do not refuse.

Q. Will you do it then?—A. Yes; I could name them if I was to bring them to my recollection—to look them all up.

Q. Well, you cannot recollect them all now?—A. I can some.

Q. We might have had the whole of them by this time.—A. There is James Small.

Q. How long did he say?—A. It took him three weeks to go in to St. Peter's.

Q. Go on. Who else?—A. William Mattheson.

Q. How long did he say?—A. I do not know the time.

Q. Who else?—A. Captain Mackay.

Q. How long did he say?—A. I do not recollect.

Q. Any one else?—A. I could go on naming them.

Q. Well, go on; the quicker you go the quicker we will get done.—A. How many do you want to know, the whole of them?

Q. Yes; the dozen you spoke of.—A. If it must be, I will have to make a memorandum.

Q. It would be very interesting, indeed; let us have the other eight.—A. There is where I got my knowledge from.

Q. From the captains that visited Newfoundland for bait—those you have named? As to the other captains, you don't remember the times it occupied them?—A. I didn't suppose—

Q. Never mind supposing; did other captains tell you the time?—A. They did. I can't recollect each one separately.

Q. Well, now, why did you pledge yourself that it would occupy on the average ten days to go in and get bait and come out? You pledged yourself to that statement. Now you say the only basis of that is that two captains told you it occupied them four days, and another a week; how do you arrive at ten days?—A. There is one in there now.

Q. Never mind about him. Explain how you arrived at ten days. You pledged your oath it would occupy ten days to go in.—A. I pledged my oath! I said no such thing.

Q. You didn't say it would occupy ten days?—A. I said that was my best judgment.

Q. You pledged your word?—A. I didn't pledge my word at the time.

Q. You withdraw it?—A. I pledge my word that is the best of my judgment.

Q. But you never were down there?—A. Not on the Bank fishery. I told you I was not there; that I got my information from captains that had been there.

Q. One told you four days, and another a week?—A. Yes: owing to the vessel's sailing, and the weather. If you got in the fog—

Q. Don't you know there is no fog on the coast of Newfoundland?—A. I have been there myself.

Q. When?—A. A great many years ago.

Q. You said you never were there?—A. I was never there for bait.

Q. Were you there Bank-fishing?—A. No.

Q. You were on the coast, you say?—A. I have harbored in Newfoundland a good many times.

Q. When were you there?—A. I can go back to forty years ago.

Q. Where were you then?—A. On the north side of Newfoundland.

Q. Be kind enough to say what part.—A. Bonne Bay and Bay of Islands.

Q. That is on the western side, is it not?—A. No: on the north-western.

Q. You were there forty years ago; did you see any fog?—A. Plenty of it.

Q. Don't you know, as a matter of fact, that the fog exists on the Banks but not immediately upon the coast?—A. That doctrine won't sit on me.

Q. What doctrine do you believe in?—A. I have got a different doctrine by experience from that.

Q. Were you ever on the eastern coast?—A. I have been down on the Grand Bank fishing seven years.

Q. You have been on the Grand Bank for seven years; you said just now you were never fishing at all?—A. I didn't say so. I said I never went to Newfoundland for bait.

Q. I know you said that, and I understood you to say you never went fishing.—A. You never heard me say so. I was, seven years.

Q. How long ago was that?—A. Forty years ago; forty or forty-five.

Q. You were there seven years preceding forty years ago?—A. Yes.

Q. Seven years consecutively?—A. Somewhere in the neighborhood of forty years ago. I have no record unless I overhaul my old books of voyages.

Q. What bait did you use in those days?—A. Clams altogether.

Q. When was it you issued these instructions you spoke of to your captains, and why?—A. When? Last spring before they went away.

Q. Just before they sailed?—A. Yes; last spring.

Q. Did you give them in writing?—A. No, sir, they were verbal.

Q. This was the first year you gave these instructions?—A. Yes; I will tell you the reason why.

Q. Never mind the reason. You told them not to go into Newfoundland for bait?—A. Yes; that is not all. I told them it would be the last voyage they would sail for me.

Q. Did you tell Mr. Atwood this?—A. Not that I know of; I don't know that I ever said anything to him.

Q. Had you any conversation with Mr. Atwood about it?—A. Not especially; I never said anything to him that I know of; I don't know as I ever did.

Q. Did he ever come and ask you your opinion as to vessels going into the Newfoundland coast for bait?—A. He did; he asked me if I agreed to their going in, if I recommended it. I told him no, not by any means.

Q. When was this?—A. Ever since the drafts came.

Q. The drafts were what you disapproved of?—A. No; but I didn't know that they were there until the drafts came.

Q. It was the drafts that you disapproved of?—A. The drafts would not have come if they had not gone in.

Q. And it was because of that you did not approve of it?—A. They caused the drafts to come.

Q. You spoke of a draft for \$147 gold that the captain of the Arthur Clifford drew on you?—A. Yes.

Q. Well, now, have you any bill of parcels of the articles he purchased?—A. No, I haven't got anything but just the draft; I never had a single thing.

Q. He has not returned, and you have not seen the bill?—A. No.

Q. You don't know what it may be for?—A. No.

Q. But you have a strong objection to paying out money?—A. No, I haven't. I have paid hundreds of dollars there for that and other vessels; I cared nothing about that; that has nothing to do with the cargo of fish; but when they last year spent that much money and brought home a half or two-thirds of a fare of fish.

Q. You object to their going there and drawing drafts and not bring-

ing home full fares?—A. Yes; certainly, because they might have staid and got their fares.

Q. Then you consider the salt bait preferable?—A. No, I never said so.

Q. The fresh bait you consider preferable?—A. Certainly.

Q. Why?—A. Because it is contrary to the element of the fish. Of salt bait there is nothing but clams—salt clams—that you can catch fish with. I have shipped them down here from your people, which is right in the fresh bait.

Q. Then the fresh bait is no good at all?—A. It is good; it is first rate, better than salt clams; but salt clams is the best salt bait you can get.

Q. But surely you don't mean to say that fresh bait is better than salt bait?—A. Yes.

Q. Do you mean to say that you can catch more fish with fresh bait?—A. Always.

Q. You can catch them faster?—A. Yes.

Q. You are certain of it?—A. Yes.

Q. It is no great advantage to have salt bait?—A. Not much at all, if you can get fresh bait—if you can get it on the ground where you are fishing, and get it every day.

Q. Well, if you must have it so?—A. I will have it so until I am older than I am now.

Q. Then you would use exertions to get fresh bait?—A. They do use a good deal of exertions. They get a good deal of squid on the Bank.

Q. Suppose you had not squid on the Bank, you would try to get it elsewhere?—A. No; you would not go that distance.

Q. What distance?—A. One hundred miles.

Q. I was not speaking of any distance.—A. I mean the distance to St. John's from the Banks.

Q. Then you think it would be prejudicial to go 100 miles to get that bait, although the fresh is so much better?—A. I want my vessels to stay there.

Q. And you think it would be prejudicial to the vessels to go into Newfoundland to get fresh bait?—A. It would be an advantage to the vessel and the crew to stay where they were and fish.

Q. Then it would be injurious to them to go in?—A. It would not be injurious if they could get it without spending half the time looking for it. If the Newfoundland people will employ a steamer to get bait and run out, we will buy it and pay that much money for it. I would do that, and pay a good deal more money for it than I do now. Only let them fetch it out.

Q. But if you can go in and out in four days, don't you think it would be better to use it?—A. That was an extra trip. They will never do it again.

Q. Do you mean to say no vessel can do it in four days?—A. I mean to say that to run in from Virginia Rocks to St. John's and get fresh bait and return again.

Q. St. John's is not the only port?—A. They will have to go further for them if they don't go to St. John's.

Q. Don't you know there are abundance of harbors between Cape Race and St. John's?—A. There are abundance, but are they any nearer?

Q. Is not the bait very prolific in those harbors?—A. It is seventy-five miles up the bay. But you cannot catch bait at all at the mouth of the harbors.

Q. Between Cape Race and Conception Bay there are a number of harbors full of bait; are there not a number of harbors for that bait between Cape Race and St. John's?—A. You bring an angle of forty-five degrees on one side and fifty-five degrees on the other, and you will find it is the same distance to the harbors you speak of that it is to St. John's.

Q. Have you never heard of any vessels going in and out in less than three days?—A. Never.

Q. Is it impossible to do it?—A. I should say so.

No. 9.

SATURDAY, *September 22, 1877.*

The Conference met.

JOSHUA PAINE, of Provincetown, Mass., merchant, called on behalf of the Government of the United States, sworn and examined.

By Mr. Dana :

Question. Your age is 58?—Answer. Yes.

Q. You are now president of an insurance company?—A. Yes; of the Atlantic Mutual Fire and Marine Insurance Company.

Q. When did you first go fishing?—A. I went fishing in 1835.

Q. In the bay?—A. Yes.

Q. What fishing?—A. Cod-fishing.

Q. How long did you continue cod-fishing in the bay?—A. Four years.

Q. Where did you catch codfish—I mean, was it within the three-mile limit?—A. No; it was deep-sea fishing on Bradley, and Orphan, and the Banks on the west coast, off Miramichi Bay and Point Miscou, and down that way.

Q. In 1840 you went into the bay again; what for?—A. Mackerel.

Q. How much did you catch?—A. About 200 barrels.

Q. Where did you get them?—A. I caught about 100 barrels at the Magdalen Islands, and 100 at Prince Edward Island.

Q. On the north side?—A. Yes; on the bend of the island.

Q. Have you any notion how far off these 100 barrels at Prince Edward Island were caught. Did you catch them within the three miles?—A. Well, from recollection, I should judge that most of them were within three miles of the shore.

Q. In '41 you went into the bay again?—A. Yes; in another schooner.

Q. How much did you catch?—A. Fifty-four barrels.

Q. What was the reason you caught so few?—A. We thought we could do better on the American coast, and went home.

Q. Did you go fishing at home after that?—A. Yes.

Q. How did you do in the home fishing?—A. I do not recollect that we did anything extra.

Q. I suppose if you had done very well or very poorly you would have recollected it?—A. I do not recollect anything particular.

Q. After 1841 you left the fishing business?—A. Well, I went in merchant vessels, and then after that I stopped home and started a grocery store. I carried on the Bank fisheries in a small way up to 1869.

Q. You mean you engaged, or that you went yourself?—A. I had two vessels.

Q. You didn't go?—A. No.

Q. In 1869 what did you do?—A. In 1869 I sent a small schooner into the Bay St. Lawrence for mackerel. She was the Emma Linwood.

Q. Were you agent or owner?—A. I was agent and part owner.

Q. What was her tonnage?—A. 73 tons.

Q. How did she do?—A. Very small.

Q. Do you remember the catch?—A. 120 barrels. She didn't go at the first of the season.

Q. Do you mean you think she was too late?—A. No; she was in time to get a full fare, but the fish were scarce and she didn't succeed.

Q. Do you know where she went?—A. No.

Q. Have you since that time been fishing at all?—A. No.

Q. You fit out both codfish and mackerel vessels?—A. Yes.

Q. Your cod-fishing vessels are fitted out in the spring?—A. Yes.

Q. What time do they go off?—A. Early in May.

Q. To the Grand Bank?—A. Yes; and the Bay St. Lawrence.

Q. Where do the mackerel vessels go?—A. They go down on our coast in the fall. After the cod-fishing voyage is done they land their codfish and go mackereling. Part of them do that. The small ones do.

Q. The bigger ones are laid up?—A. They go for oysters.

Q. How do these vessels do that fish off the American coast? How have they succeeded for some years past?—A. They do a very fair business.

Q. Well, do you send many vessels into the bay mackereling now?—A. Not any.

Q. How long since you gave up?—A. I have sent none since 1869.

Q. Do you find they do better off the American coast than in the bay fishing?—A. I think they do. That is the reason I send them.

Q. How far does that opinion prevail in your town?—A. It is pretty general.

Q. Is that shown by their action?—A. Yes; very few go into the bay.

Q. Now, you have had of late years how many cod-fisherman in your own employ; vessels I mean?—A. I had three at the Grand Bank, and, one part of the time, two in the bay and two that fished shore-fishing on our own coast.

Q. For the last how many years?—A. Two years.

Q. You have had three on the Grand Bank, two cod-fishing in the bay, and one or two fishing on the American coast?—A. Yes.

Q. Now, take your two cod-fishermen in the bay, where do they get their bait? Do they take it from home?—A. No; they carry nets—herring nets.

Q. Are they fastened to the vessel or let out?—A. Both. They carry a quantity, more than they can let out.

Q. They fasten them to the stern of the vessel?—A. Yes; some of them, and some they anchor off.

Q. They catch their own bait?—A. Yes.

Q. They catch it where they catch the codfish?—A. Yes.

Q. Now, speaking of the two you send in the bay, their fish are caught off shore?—A. Yes; on Bradley and Orphan, and at the Magdalen early in the year.

Q. Now, what bait do they catch?—A. Herring.

Q. Is that bait sufficient for them?—A. Yes; formerly they caught mackerel; of late years they could not get much mackerel.

Q. Do these cod-fishermen in the bay, of late years, fish with hook and line, or trawls?—A. Trawls altogether.

Q. They don't run in to buy any bait?—A. No. Early in the spring they bait at the Magdalen Islands. After that they catch it on the grounds where they are fishing.

Q. Do you find any complaints of want of bait?—A. No; not particularly.

Q. Have any of them run in to buy bait?—A. Not that I know.

Q. Now, as to your three on the Banks, would you state to the Commission how they are fitted out as to bait?—A. We furnish them with salt clams for bait.

Q. How is it as to the supply of clams on the American coast at the time you fit out?—A. Any quantity of clams.

Q. At the time you fit out your Bank fishermen can you get what clams you want?—A. Yes.

Q. Is there a business springing up of furnishing clams to vessels there along the coast of Cape Cod?—A. O, yes; quite a business, from Cape Cod to Maine.

Q. Now, you say you fit with salt clams?—A. Yes.

Q. I suppose their voyages are something like three months?—A. We usually fit them out for five months. In the case of the largest vessels we provide for five months.

Q. Is there any difficulty in furnishing all the salt clams they want for that time?—A. No.

Q. These voyages, have they been with hook and line?—A. Two with hook and line and one with trawl—the present year.

Q. Now state to the Commissioners how these vessels have compared with one another, as to the commercial results of their fishing.—A. Well, the Emma Linwood went to the Banks last year, 1876. She was a vessel of 73 tons, and we fitted her out for trawl-fishing with some salt bait, about 40 barrels. Last year she used the salt bait in addition to what other bait she procured on the Banks; and finally she got about 1,000 quintals and ran into Newfoundland for fresh bait. She got some fresh bait and went out and finished the voyage and arrived home. I don't know the exact time, but it was the very last of September.

Q. How much did he bring home?—A. One thousand two hundred and fifty quintals.

Q. Then he only made 250 quintals after he went in?—A. That is all. My other schooner, the Freddie Walter, sailed at the same time. She was 84 tons. She had fitted with hand-lines. We put 60 barrels of clams in her. She went down and arrived home the first day of September with 1,350 quintals.

Q. He didn't go in?—A. No.

Q. Did he use up all his bait?—A. No. He had a few barrels left. He fished a large portion of the time on the Virgin Rocks and caught fresh bait there. He told me he got caplin most of the time on the rocks. He didn't use it all, but brought some home. My other schooner, the Allie F. Long, was 97 tons. She took 75 barrels of bait. She went down fishing on the banks and arrived home the 18th September with 1,800 quintals. She was hand-lining.

Q. He returned the 1st September with 1,800 quintals?—A. Yes.

Q. Had he used up all his clams?—A. No; he had a few barrels left. He also got some caplin at the Virgin Rocks, so he told me.

Q. Now can you give us your experience this year?—A. From report?

Q. Yes.—A. I have the same three vessels out. One is trawling, and two are fishing with lines. The trawling schooner is the same, and the same two are hand-lining.

Q. What is the result so far?—A. The Emma Linwood went into Newfoundland in July. She had 800 quintals and she got squid and went out, and reported back to Newfoundland the second time 1,000

quintals. I had a draft from her just before I left home. It was then the 10th August. She was then going out with 1,000 quintals of fish. The draft on me was for \$192 gold.

Q. That is, he got 800 with the bait he took from home, and then went into Newfoundland for fresh bait and got 200 more?—A. Yes.

Q. Then he went in a second time and his draft on you was for \$192 gold?—A. Yes.

Q. Have you heard from him since?—A. No. I notice in the Boston Advertiser, yesterday, that the Freddie Walter arrived home the 16th September with 1,600 quintals. She had never been to Newfoundland. She reports the other schooner on the Banks the 5th September, with 1,800 quintals.

Q. One of your hand-liners made 1,600, and reports the other on the Banks with 1,800. They used only the bait from home?—A. That is they did not go into Newfoundland.

Q. Now tell me what bait they take on the Banks.—A. They take on the Virgin Rocks caplin, and before they go there they use birds.

Q. Do they take birds with hooks?—A. With shot guns and with hooks. They use also some of the refuse of the fish, the spawn, &c.; the pea, that is, of the codfish. They catch some squid on the Banks.

Q. Well, there have been times when the squid are very abundant on the Banks?—A. In '73 I had a schooner that went three trips, and never carried any bait unless it was a very few barrels. That was in '73 or '72, I don't know which.

Q. Supposing a vessel to be fishing where the Bank fishermen from Provincetown usually do, and to go into one of the ports of Newfoundland, one of the usual ports, suppose her not to have any extraordinary delay, but to be able to buy bait at once and return to her ground, making allowance for all the difficulties in the way of navigation, what do you think would be the average time for the passage to Newfoundland and back to her ground?—A. I should think seven to ten days.

Q. Now as to the certainty of being able to buy as soon as she arrives, or within twenty-four hours after, what bait she wants, do you know anything about that? How is that?—A. Well, it is uncertain.

Q. Well, if these vessels could not buy bait, but had to run to Newfoundland and catch bait within three miles of the coast, then you could not tell at all, of course, how long it would take them?—A. No.

Q. But taking the most favorable view, that they have to go 100 miles or so into a harbor, and occupy one or two days, say two on an average, or three, to buy bait, and return. By the way, you consider that simply as bait the fresh bait is better than the salt?—A. Yes.

Q. Now, allowing for that, and taking into consideration all that makes up the commercial proposition, which would you rather your vessel would do, fit out with salt clams and take their chance of fresh bait on the Banks, or go to Newfoundland to get fresh bait?—A. I should rather they would take their chance with salt clams, and not go in at all.

Q. You consider the loss of time in fishing, and the expense and everything that enters into the problem?—A. My experience in the two years I tell you of is in favor of that.

Q. This business of going into Newfoundland from the Banks is very recent?—A. It is with my vessels.

Q. You know as an underwriter and as president of an underwriting company, and also as an outfitter, you must know the opinion of the masters of vessels, agents, and owners in Provincetown about that.

What do you say the opinion is there on that subject?—A. I think the opinion is that the vessels had better not go in.

Q. But the majority of your vessels year before last perhaps went in?—A. I think they did.

Q. How is it this year?—A. I could not say for certain; perhaps more.

Q. But not so many in proportion as went in before?—A. I think not.

Q. Do you think the opinion against going in for bait is increasing?—A. I think it is.

Q. Where do you sell your codfish?—A. In the Boston market mostly and in Philadelphia.

Q. It is all sold in the United States?—A. Yes.

Q. Have your vessels ever sold any fish in Newfoundland?—A. Not to my knowledge.

Q. Now, with reference to the Magdalen Islands, as an underwriter and an outfitter and fisherman, what do you say with reference to the safety of that place?—A. Well, the Magdalen Islands is a pretty windy place, but the surroundings are such that it is considered there is a better chance to make lee than any other place in the bay.

Q. Allowing for it being a boisterous place, as there is this opportunity of circling round the island and finding a lee, do you think it is a safer place from shipwreck, although, perhaps, not so agreeable?—A. Yes, unless it is the south side of Prince Edward Island and up about Georgetown. They may be preferable.

Q. Take the bend of the island between North Cape and East Cape. What is the most dangerous wind, by the way, in that region?—A. The northeast.

Q. You can look at that map (pointing to the chart). You see the bend of the island there?—A. The northeast wind blows right into that.

Q. Now, if a vessel is in there, within three miles of the shore, and a northeaster comes up, what chance has she?—A. I had experience of that one night myself. In 1840 we were fishing one trip and went in the bay. There came a northeaster and we had a very severe time. We had to carry sail and go out by East Point.

Q. How far off were you?—A. It was thick sort of weather. I could not say very well.

Q. You managed to weather the point?—A. Yes, sir; we did. The wind in the latter part of the night veered more northerly.

Q. If the wind had continued northeast, would you have made it?—A. I don't know. It is doubtful.

Q. Of course it does not need much nautical skill to know that a bight into which the wind blows directly is no safe place?—A. Unless there are good harbors.

Q. Do you know any good harbors in the bight of the bay?—A. I haven't been there for quite a number of years. But when I was there we considered Malpeque Harbor in the day-time, if it was not very rough, quite a good one, and Cascumpeque. The schooner I was in went to New London.

Q. You know from information from others that have been there whether there are in the bight any harbors large enough and safe enough to furnish refuge for a considerable fleet of vessels?—A. Malpeque Harbor is a pretty good Harbor if you are in.

Q. Is there any trouble about getting in?—A. The water is pretty shoal on the bars. We would expect it to be shoal and rough on the bars.

Q. Do you know whether the bar is diminishing in depth?—A. I don't know.

Q. Do you know anything of those Americans who have gone to Magdalen Islands to establish themselves?—A. I do know a company of young men that went there from Provincetown. I am personally acquainted with them. They were neighbors of mine.

Q. They were capable men?—A. Yes; there were five young men, as good fishermen as we have out of our place. They are natives of the place, and have followed fishing from boyhood.

Q. How did they get on the first year?—A. They made a sinking voyage; they lost money.

Q. Have any of them gone back?—A. Yes; two of them.

Q. What do you know about that?—A. I don't know much about it.

Q. What have you heard about it?—A. I have heard that they were doing a small business.

Q. What are your rules as underwriters in Boston as to the rates charged for the season for fishermen in the bay?—A. We charge fishing-rates for the season, three-fourths per cent. a month—a half per cent. a month extra in the Bay St. Lawrence after October 1.

Q. What is the rule about herring fishers?—A. We issue a yearly policy for a vessel, and if she wants to go fishing after October 1st she pays extra. We prohibit vessels from going east of Canso October 1st to May 1st.

Q. You won't insure on any terms?—A. No, unless we get a special premium. In our policies it is prohibited. She must have a special policy. We had a vessel that went to Cow Bay and was lost, and we never paid for her because it was prohibited.

By Mr. Davies:

Q. Do I understand you that you charge three-quarters per cent. to October 1 to a vessel, with a right to frequent the bay after that by paying half per cent. extra?—A. The fishing rates are three-quarters per cent. per month, and if they are in the bay after October 1, they have to pay half per cent. extra per month.

Q. That is in your policy?—A. Yes; it is printed.

Q. What rates do you charge when a vessel goes to the George's?—A. We do not insure.

Q. You won't insure them at all?—A. We do not carry on that business.

Q. But would you insure vessels to the George's Banks for anything like those rates at all?—A. I think not.

Q. What rates would you, as an underwriter, require for a vessel to the George's Banks?—A. It is according to the season. After February we would charge them higher than in June.

Q. But they go in February, don't they, and fish all winter?—A. Yes.

Q. Would you as an insurer insure them at all for those months?—A. Yes.

Q. Name the premium you would require?—A. I do not know what we would charge. If I had an application I would consider it.

Q. As a matter of fact they go without insurance?—A. I think that they carry on a mutual office in Gloucester, and insure their own vessels.

Q. In your evidence you have spoken altogether of Provincetown?—A. Yes.

Q. You do not wish to extend your evidence beyond vessels sailing from that port?—A. I confine it to that.

Q. I understand that you never did prosecute the fishing in the bay to any extent from that port. Am I right? Did I understand you aright?—A. I wish to say that I never prosecuted it to any extent myself.

Q. Have any of your merchants from Provincetown prosecuted it to any extent? I only ask for information, as I have been given to understand that you never did.—A. I think there is quite a number of cod-fishing vessels there this year. The mackerel has been nearly abandoned.

Q. I want to know whether at any time the mackerel fishers have prosecuted the business in the bay from Provincetown?—A. They have to some extent.

Q. I know, but kindly give us some information as to what extent.—A. I don't know that I have any statistics.

Q. I am instructed that you never did.—A. We never have; it is mostly cod-fishing.

Q. When you say that you have abandoned it, you mean that you had very little to abandon?—A. Not very many.

Q. How many vessels have you prosecuting the mackerel fishery from Provincetown altogether?—A. I don't know.

Q. Are there as many as ten or twelve?—A. I think there is.

Q. Would you say as many as that?—A. I should think so. I think more.

Q. Many more?—A. I think there is.

Q. I want to have an idea?—A. I don't know. I don't carry on the mackerel business myself, and don't pay much attention to it.

Q. You never have carried it on much yourself?—A. No; my small vessels go fishing around the shores in the fall for mackerel.

Q. You haven't given much attention to that branch of the business?—A. No; very little.

Q. I believe you are not what we call a practical fisherman? You are a merchant and remain at home?—A. Yes.

Q. You don't go yourself, and haven't for many years?—A. No.

Q. Just explain about the navigation of the Gulf of St. Lawrence, and the bight of the island? How many years is it since you have been there?—A. Since '41 I have not been there.

Q. That is somewhere about thirty-five years ago?—A. Yes.

Q. You can hardly say from practical experience whether it is a safe place or not?—A. No; only the time I was there.

Q. I have been a little surprised to hear about this dangerous coast, as I have lived there. I am anxious to know from somebody where these dangerous places are. You know the harbor of Cascumpeque?—A. Yes.

Q. Now, as a practical man, I ask you, is there the slightest difficulty in a vessel, with a northeast wind, sailing directly to Cascumpeque Harbor?—A. I consider it a shoal-water harbor.

Q. That is not the question. Is there the slightest difficulty in a vessel in the bight, with a northeast wind, making Cascumpeque?—A. I think there is.

Q. Show why.—A. I think it is a shoal-water harbor. That is my experience. It is very rough.

Q. You give your reason because of the harbor, not because a vessel could not make it with the wind?—A. The wind would be fair, of course.

Q. The only objection you would have would be the harbor?—A. Yes.

Q. Would you have the same objection to Malpeque?—A. Yes.

Q. How many vessels have sheltered there at one time?—A. I don't know.

Q. Would you be surprised to learn that as many as 250 have?—A. No.

Q. Constantly week in and week out for as many as 15 years?—A. I should be a little surprised.

Q. With respect to the number?—A. Yes; because, to the best of my knowledge, I should not think there would be so many going there for so many years.

Q. You know Souris Harbor on the map?—A. Yes.

Q. Now, if the wind is northeast, or north, is there any difficulty in making Souris?—A. I think not.

Q. Has it not been the invariable custom for all the fleet to make for the harbors at night, and remain there during the night?—A. I don't know. It was not when I was one.

Q. If it was so (it was in point of fact from 1851 to 1867 or 1877)—if they remained in the harbors during the night, and went out at day-break, would you consider there was any difficulty?—A. I don't know.

Q. You don't know what improvements have been made by the government in these harbors?—A. No.

Q. And, therefore, your information upon that point as to the respective dangers of the navigation of Prince Edward Island and Magdalen Islands refers to a period of 35 years ago?

Mr. DANA. You mean his personal experience.

The WITNESS. Yes.

Q. You would hardly hazard an opinion on that point against the opinion of men accustomed to sail there year after year?—A. No.

Q. You have never been personally fishing on the Banks for codfish?—A. Never.

Q. It is only of late years that the practice has been made of using fresh bait?—A. So I understand.

Q. Has it been prosecuted to any extent since it has first been taken up?—A. To quite an extent. We had fresh bait on the Banks for a number of years.

Q. You said, I think, in answer to Mr. Dana, that a very large proportion went in one year, about half of them last year, and that you were not able to say how many of them went in this year to Newfoundland?—A. I don't know.

Q. You can't tell whether those two vessels, the Emma Linwood and the Freddie Walter, went into the bay this year or not? You have no knowledge one way or the other? You were not there, and haven't heard directly from your captains? Not being there yourself, as a matter of fact, you have neither personal knowledge nor the means of information?—A. I am satisfied in my own mind.

Q. You have a shrewd suspicion they did not?—A. I didn't fit them to go in. I sent them hand lining, and I heard from them on the 10th of August. The hand-liners had not been in, and I don't believe they have been in since.

Q. I thought you said you did not hear from those two vessels. Have you heard direct from the captain?—A. I saw the Advertiser. I heard from them direct on the 10th August.

Q. Do you believe or have you certain knowledge to enable you to express any opinion as to whether of two vessels fishing alongside of one another, one with salt bait and the other with fresh—whether the vessel furnished with salt bait would be able to compete with the one furnished with fresh bait?—A. I don't know.

Q. If a practical fisherman were to assert that a vessel with salt bait would have no chance alongside of the other, you would not be prepared to dispute it?—A. No.

Q. A gentleman called by the American Government, Mr. Stapleton,

from Gloucester, was asked the question if one vessel had fresh bait whether the others didn't want it too, and he said yes; and, further, he said that if a vessel alongside had fresh bait you could not catch your share with salt bait.—A. I don't know anything about it.

Q. You do not wish to be understood as expressing any opinion upon this fresh or salt bait?—A. No; not to compare them; but I say that my vessels that started from home with salt bait and continued fishing with it have succeeded better than those that went in for fresh bait. The loss of time and expense overbalanced the advantage of having fresh bait.

Q. You are not aware of the fact yourself, nor of the reasons that enabled one vessel to take a large catch and another a small one; there are other reasons besides the quality of the bait that contribute to one vessel taking a large catch as against another?—A. I don't know.

Q. Take the reasons you have given. Can you tell what the cost of procuring bait is? \$190 I think you said?—A. That is the draft; I do not know what it was for.

Q. Supposing that it cost \$100, would you consider that an element of any moment at all in considering whether she should go in or not?—A. Would that be a material element?—A. It would be something.

Q. With a catch such as your vessels take? \$100 would not be much on a catch of 2,000 quintals?—A. If he had staid there and got his whole catch without going in there and paying \$100 it would be better for me. The others staid there and fished and finished their cargoes, and got home without sending any draft.

Q. But I am reading you the evidence of a fisherman called by the American Government. He says the vessel fishing with salt bait has no chance where the other has fresh bait.

Mr. DANA. Don't you think it is a little dangerous reading from memory? He didn't say there was no chance.

Dr. DAVIES. I think that will be recollected as the substance of his testimony. I have a very strong recollection.

Q. Now as to the number of days it takes a vessel to go into port and come back. Have you any practical or personal knowledge?—A. No.

Q. What induced you to hazard an estimate of seven to ten days. Was it a mere guess?—A. No. From talking with the captains and talking the thing over I arrive at that. I had letters from captains that had been in a few weeks and hadn't any bait. They were about ready to go back but hadn't any bait.

Q. You have no means of knowing what the cause of the detention was?—A. She was detained by calms and by a scarcity of bait.

Q. And other reasons, possibly?—A. I don't know any others.

Q. And you give these reasons simply from his own statement?—A. From that statement to the best of my knowledge.

Q. If we had evidence that it required only twenty-four hours it would not surprise you?—A. It would as to that vessel.

Q. I am speaking generally as to the time required by a vessel. Have you sufficient knowledge to enable you to be surprised?—A. No.

Q. Then upon that point you don't wish your evidence to be taken for any weight?—A. No.

Q. Have you any knowledge of that portion of the cod-fishing fleet which goes to the Gulf of St. Lawrence from Provincetown?—A. I have two there myself.

Q. Do they fish with trawls?—A. Yes.

Q. Do you know whether they use fish bait or not?—A. Yes.

Q. Do you know where they get it?—A. They catch it in nets.

Q. Are you sure?—A. I furnish the nets.

Q. Don't they catch bait in those nets at the Magdalen Islands in the spring?—A. They do catch some herring near Magdalen Islands in the spring.

Q. Large quantities, I believe?—A. Yes; as much as they want.

Q. Are you aware whether they run into the coast of Nova Scotia for ice and bait?—A. They do not.

Q. Do any of the fleet coming down to the gulf carry home fresh fish?—A. Not of mine.

Q. Any of the fleet?—A. I don't know; it is very large.

Q. You are just confining this evidence to your own vessels?—A. Yes.

Q. How many years have they been there?—A. One since 1870, and for the other, this is the second trip.

Q. Are you of the opinion that they have never been in for fresh bait?—A. I am except as to the Magdalen Islands; but I don't speak positively, not being there. I furnish the vessels with nets; and the captains told me they set nets on the Banks Bradley and Orphan, and catch their herring and use it for bait. He says the herring are plenty there all through the summer season.

Q. In justice to you, I may say it is in evidence that some of the American codfishing fleet do come in and procure fresh bait.—A. Perhaps so; I do not know.

Q. I see you have had a little to do with the mackerel?—A. Very little.

Q. You were down yourself in 1835?—A. I was cod fishing that time.

Q. In 1840 you were down cod-fishing and for mackerel too? How many did you get?—A. Two hundred barrels.

Q. You got 100 at the Magdalens and 100 at Prince Edward Island?—A. That is as near as I can judge.

Q. Were there any cruisers about there in 1841, protecting the fisheries?—A. I did not see any.

Q. These 100 barrels taken at Prince Edward Island were caught in the bight?—A. Yes.

Q. Did you catch them early or late?—A. In September and October.

Q. What kind of fish were they?—A. Very nice.

Q. What would you class them?—A. They were mostly No. 1 and No. 2.

Q. You never went fishing in Bay Chaleurs, or on the west coast?—A. No.

No. 10.

NATHAN D. FREEMAN, of Provincetown, merchant, called on behalf of the Government of the United States, sworn and examined.

By Mr. Foster:

Question. You are a merchant?—Answer. Yes.

Q. What kind?—A. I am connected with the vessel business as an outfitter.

Q. You are of the firm of Freeman & Hillyard?—A. Yes.

Q. Well, you have not yourself fished much, I suppose?—A. No, very little.

Q. During the last ten or twelve years your firm has had two or three mackerel vessels?—A. At times, yes.

Q. Have any of them been to the bay?—A. I had one in the bay in 1867.

Q. Did she have a license?—A. She did.

Q. What was her name?—A. The Benjamin F. Rich.

Q. Her captain's name?—A. John B——.

Q. You paid for the license?—A. Yes.

Q. How many fish did she catch?—A. One hundred and seventy barrels.

Q. Have you had a mackerel-vessel in the gulf since?—A. I think not; not of my remembrance.

Q. How many vessels have you on the Grand Banks for cod?—A. This season?

Q. Yes, generally, for the past few years?—A. A fleet of five or seven usually.

Q. For what number of years have you had them?—A. Well, I should think I have averaged that number for the last fifteen years.

Q. Now, how long is it since any of your vessels began to go to Newfoundland to obtain bait?—A. I think perhaps two or three years.

Q. Take the year 1875; did any of them go then?—A. That is year before last. I have no remembrance of any then. Possibly they might.

Q. When first?—A. I remember 1876, and also this year.

Q. How many of your vessels went in 1876?—A. Three.

Q. How many did you have in 1876 codfishing on the Banks?—A. Five.

Q. Then three went for bait, and two did not. What was the average cost to you for bait?—A. The average cost last year, if I remember right, was \$125 a vessel.

Q. How many vessels have you this year on the Banks?—A. I have five.

Q. Have any of them been in for bait?—A. All have been in this year.

Q. What has it cost you?—A. Those that have been in but once, if I remember right, the drafts have been \$125 a vessel. Those that have been twice, the drafts I think have been \$170 or \$180.

Q. Now take last year, the year three of your vessels went in, and two did not; which made the most profitable trips, those that went to buy bait, or those that did not?—A. It is rather difficult to tell last year. They didn't any of them do very much. I think we hadn't a vessel, or we had but one that got a full fare. There was one that didn't go in and didn't get a full fare.

Q. Those that went in didn't get full fares?—A. No.

Q. Do you regard it as beneficial for your vessels to go to Newfoundland to get bait?—A. No; I do not.

Q. Now, suppose that instead of buying bait there they had to catch it themselves, would it then be any benefit?—A. My impression is it would not.

Q. Well, explain your reasons for thinking so in addition to your own experience?—A. I think it would require too much time to get it.

Q. Do you know the opinion of the vessel owners of Provincetown, and the outfitters, in regard to this?—A. I think I do. The general opinion is that it is not well for our vessels to go in for that bait.

Q. You have have given one reason that too much time is lost. Is there any other?—A. There is the expense to be taken into consideration, also, and the risk.

Q. Do you insure your vessels?—A. No; our concern does not.

Q. You underwrite for yourselves?—A. Yes.

Q. You say that within the last ten years you have had but one vessel go into the Gulf of Saint Lawrence for mackerel. During that time

how many mackerel vessels have you usually had?—A. We have usually had from two to three.

Q. Where have they fished?—A. They are just the same fishermen who have made a voyage to the Banks. If they have succeeded in getting in early enough they can go mackerel fishing in the fall.

Q. Your vessels only make autumn trips?—A. Yes.

Q. On those trips they have resorted to your own shores?—A. Yes.

Q. Have they done fairly well?—A. Generally so.

Q. This year, I suppose, they have not begun to fish?—A. No.

Q. How many boats, manned by a couple of men each, are there from Provincetown, engaged in the inshore fishery?—A. I am unable to state definitely. I should judge from fifty to seventy-five.

Q. What do they do with their fish?—A. They sell them principally fresh.

Q. Do you know about the fishing in weirs along the coast?—A. I have very little information with regard to that about our town.

Q. Have you an opinion whether the right to use the inshore fisheries, those within three miles of British territory, coupled with the free importation of British fish, is a benefit to our fishermen or not?—A. My opinion is that it is not a benefit to the fishermen.

Q. So far as you know the opinions of others, would it be the preference of the people of Provincetown to have the provisions of the Washington Treaty as they are now, or to have the old duty on the fish restored and be excluded from the three-mile limit?—A. We should prefer to have the duty restored and be excluded.

By Mr. Weatherbe:

Q. Were you among those who opposed or favored the continuance of the Reciprocity Treaty?—A. Was I among those that opposed it?

Q. There were some that opposed it, or rather required the duty to be maintained upon codfish?—A. I was one who preferred to have the duty retained upon codfish.

Q. Upon codfish?—A. Yes.

Q. You didn't care about other fish? Did Captain Atwood represent you? He went on a delegation from the people of your town.—A. I went myself as one.

Q. To Washington?—A. Yes.

Q. You were one of the delegation with him?—A. Mr. Atwood at that time was not with us. Perhaps he went.

Q. I am speaking now of the delegation of which he gave evidence. Have you seen his statement?—A. No. I went as a delegation to prevent the ratification of the Washington Treaty.

Q. I am speaking of the Reciprocity Treaty.—A. I was not on that delegation.

Q. Did he represent you on that?—A. He was supposed to represent the town.

Q. You were one of those that sent him?—A. I don't know. I have not much remembrance about it.

Q. Your people wished, in fact, to keep the duty on codfish?—A. Yes.

Q. Why? Be kind enough to state why.—A. Because we felt it would be better for us, as a cod-fishing town, to exclude, as far as possible, the fish from the provinces. It would give us a better chance, as we supposed, to dispose of our fish at higher rates.

Q. And the effect of the treaty you considered would be to reduce the price?—A. We supposed that the effect of the treaty would be to bring in codfish from these provinces into our port, and of course necessarily it was presumed that it would reduce the price of fish.

Q. There was a good deal of excitement in your town about it at that time, was there not?—A. Excitement? Well, we expressed our views. I do not know that there was any undue excitement.

Q. If I am correctly informed, you went up to oppose a delegation, perhaps part of it from your own place—a delegation in favor of the treaty—in consequence of the advantage to the mackerel fishery?—A. I went up as I said. I was sent to Washington as one of the delegates to oppose the ratification of the treaty, or that portion of it which related to this fishing question.

Q. I want to see whether I am correctly informed. Would you have gone up at all if it had not been there was a delegation in favor of it?—A. In favor of what?

Q. Of the treaty?—A. I was not aware that there was a delegation in favor of it.

Q. Did you never hear that?—A. No.

Q. This last treaty?—A. No; I was not aware of it from our town.

Q. From Gloucester?—A. There was a delegation from Gloucester that was opposed to it, as we were. I was not aware there was any in favor of it.

Q. You do not know anything about it?—A. No.

Q. Were not those interested in the mackerel fishery in favor of it?—A. Certainly, I saw none.

Q. But generally those that were altogether interested in the mackerel fishery?—A. I saw no one there that was in favor of that treaty.

Q. I am asking you generally whether the people interested in the mackerel-fishing were not in favor of it.—A. I think I can safely say they were not, so far as my information extends.

Q. Whom did you communicate with from any other place than Provincetown?—A. I saw a delegation from Gloucester.

Q. Mackerel-fishers?—A. Yes.

Q. They combined with you then?—A. They did.

Q. What was their object?

Mr. DANA. He has not quite answered your question.

WITNESS. There were delegations from the town of Plymouth and Wellfleet. I think, perhaps, there were others, although I cannot call them to mind just now.

Q. Were they mackerel-fishers?—A. The Wellfleet delegation represented mackerel-fishermen entirely. The Plymouth delegation represented, perhaps, cod fishers. I think they are mostly engaged in cod-fishing. Our town was engaged in both branches, and our delegation represented both interests.

Q. I suppose the mackerel-fishers have the same object, to keep up the price of fish?—A. I presume they have.

Q. Then, of course, you think your views are correct. You think now, I presume, that your opinion was correct?—A. Yes.

Q. And you still continue to think that is correct, and that the effect of the provisions of the treaty is to bring down the price of fish?—A. Yes; I think that is the tendency. I am not aware whether it has brought the prices down.

Q. I mean to say you have not changed your opinion?—A. No.

Q. Of course there might be other causes operating, but that is the general tendency of the treaty?—A. Yes.

Q. To make the fish cheaper for the consumer?—A. We have so regarded it. Well, perhaps it would have that tendency. We have thought that it would.

Q. That is precisely what your opinion was?—A. Yes.

Q. You have not altered your opinion?—A. No.

Q. Your opinion, if you will allow me to put it in my words, is that it makes fish cheaper to the consumers in the United States?—A. My opinion is that it will have that tendency.

Q. You have never been a practical fisherman?—A. Very little.

By Mr. Foster:

Q. You refer to the petition you and other fishermen went to advocate at the time of the Treaty of Washington. Is that it? (Copy of petition produced.)—A. I think, from looking it over, it is the memorial presented.

Q. Do you know if this is the petition prepared by the committee of fishermen at the time you were there?—A. A committee was appointed.

Q. These are the names of the committee and this was the petition?—A. Yes.

Mr. FOSTER. I will put in copy of the petition now or at some future time.

By Mr. Weatherbe:

Q. You did not sign the petition?—A. No.

Q. You have not looked it over?—A. That was the committee appointed to draught a petition.

Q. That is all you can state, that Messrs Loring, Baker, and Proctor were appointed to draft a petition?—A. That is all.

SIR ALEXANDER GALT said he doubted whether it would be in order to put in the petition at that stage.

Mr. FOSTER. I will put in the petition as substantive evidence itself, not as anything connected with the testimony of the witness, and I only called attention to it because in cross-examination he said he was at Washington about that time. Having the petition, I asked him if that was the petition.

Mr. WEATHERBE. I take it for granted that such a petition was presented. You have not proved it.

Mr. FOSTER. Not at all.

Mr. DAVIES. As a matter of fact, was it presented?

Mr. FOSTER. Yes.

No. 11.

BANGS A. LEWIS, residing at Provincetown, Mass., merchant and outfitter of vessels, called on behalf of the Government of the United States, sworn and examined.

By Mr. FOSTER:

Question. You are thirty-seven years of age?—Answer. I am in my thirty-eighth year.

Q. Were you ever a fisherman yourself?—A. Yes.

Q. When?—A. First in 1856.

Q. For mackerel?—A. Yes.

Q. Where?—A. On the coast of Maine.

Q. How long, and what did you catch?—A. Only one trip, six weeks, and we caught 150 barrels.

Q. Did you ever fish in the gulf?—A. Yes.

Q. For mackerel?—A. No.

Q. For what?—A. Cod.

Q. What year was that?—A. 1859.

Q. When did you begin to be connected with fitting out vessels?—A. 1861.

Q. You have been in that business more or less since?—A. Yes.

Q. In 1867 you were interested, I believe, in a vessel which was in the Gulf of St. Lawrence; if so, what was it?—A. I was interested in the schooner Marshal Ney.

Q. What was the captain's name?—A. E. W. Lumley.

Q. Was the vessel licensed?—A. Yes.

Q. What was her tonnage?—A. About forty tons.

Q. How many mackerel did she get that year?—A. Seventy-five barrels, as near as I can remember. I am quite positive not over 80 barrels.

Q. Did you succeed in finding the vessel in the list of those licensed?—A. Yes.

Q. Have you been interested in a few mackerel-fishing vessels fishing on the Massachusetts coast since then?—A. Yes.

Q. How many each year?—A. Some years two, some three, some four.

Q. When did you have any last?—A. 1875 was the last year we had anything to do with the fish. We had one engaged in that business in 1876, but she was chartered by other parties.

Q. From 1869 to 1875 you were interested in from one to four vessels a year engaged in fishing for mackerel on the United States coast, but in regard to vessels coming to the Gulf of St. Lawrence you were never interested in any except one, which took out a license in 1867, and caught 75 barrels?—A. Yes.

Q. Have you fished yourself for cod?—A. Yes.

Q. Where?—A. On the Grand Banks and in the Bay St. Lawrence.

Q. When?—A. My first year on the Grand Banks was 1857.

Q. Were you there before you went to the gulf?—A. Yes.

Q. What years were you on the Grand Banks?—A. 1857, 1858, and 1860.

Q. Did you purchase any bait from the British Dominions in those days for Bank cod-fishing?—A. No.

Q. How did you supply yourselves with bait those years on the Grand Banks?—A. By taking salt bait with us from home and then replenishing with what we could get in the way of bait on the Banks.

Q. What did you get on the Banks in the way of bait?—A. We used to get birds and cut out some portions of the entrails of fish, and sometimes we could cut up a piece of haddock to fish with in case of necessity.

Q. When you fished in the Gulf of St. Lawrence, how did you get your bait?—A. By nets.

Q. Set where?—A. Set from the vessels.

Q. On the fishing grounds?—A. Yes.

Q. Describe the nets?—A. The nets are what are called herring nets.

Q. Put out from the vessel itself or from boats?—A. Put out from the vessel itself and then moored to moorings.

Q. Out in deep water?—A. Yes.

Q. And the herring you caught in that way you found sufficient with the bait you took from home?—A. We did not take any bait with us. We did not find the bait we took in our nets sufficient to supply us.

Q. How did you make out?—A. We did not get a fare of fish in consequence of it.

Q. Now, what experience have you in the voyaging of cod-fishermen where the vessels have gone from the Banks to Newfoundland to procure bait?—A. We have had vessels go in there two different years.

Q. What years?—A. 1875 and 1876.

Q. Did all the vessels go there in 1875 for bait?—A. No.

Q. How many did you have?—A. Four.

Q. How many went in for bait?—A. Three.

Q. What did it cost you; do you remember?—A. I should say, every time they went in, the drafts amounted to \$100. They would average \$100.

Q. How did this vessel do which did not go in at all for bait; what vessel was it?—A. Sarah R. Smith.

Q. If she did better than the other vessels, how much better; please explain.—A. She brought in more fish and realized more money from the voyage.

Q. That was in 1875?—A. Yes.

Q. Did that same schooner fish on the Banks in 1876?—A. She did.

Q. Did she go to Newfoundland then for bait?—A. No.

Q. How did she do then?—A. Better than any other of our vessels, of which we had five that year. Four of them went in for bait.

Q. From the experience you have had, is it or is it not profitable to go to Newfoundland to get bait?—A. I should say, decidedly, not profitable to our fishermen to go there.

Q. In regard to buying bait, if the vessels are obliged to hang round till the fishermen get it, how then?—A. I do not consider it any privilege at all to do it.

Q. What is the opinion of the people in Provincetown engaged in this business, so far as known to you, on that subject?—A. Their opinion coincides with mine in that respect, I think; the opinion of those I have had conversations with.

Q. Is squid found off the shores of Massachusetts?—A. They are.

Q. Where?—A. At Sandy Point and Cape Cod.

Q. Where is Sandy Point?—A. The right name is Cape Malabar.

Q. Whereabouts is it?—A. About half-way from Buzzard's Bay to Race Point.

Q. On the south side of the cape, Princetown being at the north end?—A. Yes.

Q. You say squid is found abundantly there; at what time?—A. It commences there in May.

Q. Is it got there by your vessels, to some extent, for bait?—A. None of our vessels ever went there after the bait; but we have had it come over the railway to our place. I cannot say whether any vessels ever went there for it; I should say some vessels have, but I would not take an oath on it.

Q. How far is it by land?—A. Between 30 and 40 miles.

Q. How many boats are fishing from your town to get fresh fish for the markets?—A. I should judge from 60 to 75.

Q. How many men to each boat?—A. Generally two; there are some exceptions.

Q. What do they do with the fresh fish?—A. They sell them there at the place.

Q. To go to what market?—A. Dealers buy them there to send off to Boston and New York markets.

Q. And for local consumption, of course?—A. Yes.

Q. As to weirs and pounds; what quantity of fish is taken on weirs and pounds within the circle of your acquaintance?—A. I could only say from hearsay. I never was down at one of the weirs. I have heard vast quantities.

Q. Does the Treaty of Washington, by its fishery clauses, confer benefits on your fishermen which they value, or would they prefer the res-

toration of the old duty on fish?—A. They would prefer the duty being reimposed.

Q. What was the opinion of the people of Provincetown about the Treaty of Washington (its fishery clauses) at the time it was made?—

A. They thought it was decidedly adverse to their interests.

Q. I believe you were one of the deputy inspectors of fish for your town from 1870 to 1876?—A. Yes.

Q. Did you give Captain Atwood some of the statistics in regard to mackerel? Did he inquire of you?—A. Think he did.

Q. There is no mackerel reinspected in your town now as having come from the gulf—none that is taken by British fishermen and reinspected?—A. I never knew of a barrel.

Q. None that came from the gulf at all?—A. Very few, indeed.

Q. Do you happen to know whether the mackerel that does come from the gulf is branded or stenciled "Bay mackerel"?—A. They are branded bay. Our inspector places a stencil mark on the head of the barrel, "Bay."

Q. Where they reinspect and put into new barrels mackerel which has once been inspected here, do you happen to know if it is marked reinspected?—A. I do not know.

By Mr. Davies:

Q. The mackerel fishery is not prosecuted much in Provincetown?—A. Not so much as at some other towns in the States.

Q. Do you consider it an appreciable part of your business at all?—A. We do.

Q. I have been looking over the returns. I see out of 295 American vessels which took out license in 1867 only 12 were from Provincetown; out of 61 vessels in 1868 only 2. Out of 254 reported by the inspector at Port Mulgrave in 1873 only 5, were from Provincetown, and out of 164 reported in 1874 only 4. So, judging from the returns, your town must be one of the smallest on the coast engaged in mackerel fishing in the bay?—A. I think so.

Q. Your great interest is the cod fishery?—A. Yes, more largely cod than mackerel.

Q. And codfish, we all know, are taken chiefly outside of the limits; it is a deep-sea fishery as a rule?—A. Yes.

Q. When you say your people you mean to limit it to the people of Provincetown?—A. Yes.

Q. You say advisedly that your people thought the Washington Treaty was adverse to their interests?—A. Yes.

Q. You preferred the duty which was levied on fish?—A. Yes.

Q. Why?—A. Because we thought its abolition hurt the sale of our mackerel, for more mackerel were thrown into the market.

Q. What was the consequence?—A. They lowered the price.

Q. And naturally from your own stand-point you want to get as high a price as you can?—A. Certainly.

Q. You wanted the consumer to pay more than he wanted to pay?—A. We are all very selfish in regard to that.

Q. That was the motive which prompted you to oppose the treaty, I suppose?—A. Well, I think it was.

Q. You spoke with regard to bait-fishing in Newfoundland and gave a very strong opinion in respect to it. Over what years have you had personal experience of going into Newfoundland to purchase or catch bait? Have you gone in more than once?—A. I never was in there

Q. Then your opinion is not formed on personal experience?—A. No, only from my being connected with fishing-vessels.

Q. Your opinion is formed from hearsay?—A. I don't altogether form that opinion from what others say. Partly from that.

Q. And what else?—A. By having had a vessel engaged in the fishery business for two years which did not run into Newfoundland for bait, but caught more fish than either of the vessels we had there.

Q. You gave the name of that vessel, the Sarah R. Smith?—A. Yes.

Q. She did not go into Newfoundland for bait, but fished with clams altogether?—A. No.

Q. With what?—A. She used principally clam-bait brought from home.

Q. What else did she use?—A. She used whatever bait she could obtain, whatever they could cut out of fish, also halibut and birds, which they got on the Banks.

Q. What is the name of the vessels which went in and got bait?—A. Do you refer to 1875?

Q. The same year as the Sarah A. Smith, with which you are making a comparison?—A. John A. Lewis.

Q. Did she go into Newfoundland often for bait?—A. Twice, I think.

Q. Do you know what she paid for bait?—A. No.

Q. As much as \$100?—A. I think about \$100.

Q. How long would she be occupied in getting bait?—A. I think, on an average, ten days. I will give you a little item which convinces me that it takes ten days, as well as my knowledge of the fishing grounds.

Q. You never went in yourself?—A. I never was there, but I know where the land lay.

Q. You have formed an opinion, and that opinion is that it takes ten days?—A. Yes.

Q. If that opinion conflicted with the personal and practical experience of others, you would not be inclined to hold it?—A. Of course, I should be inclined to give way to them if they had a knowledge of all the facts of the case; but I think I know something in regard to that.

Q. I want to know what your opinion is based upon?—A. A few days before I left home I had a letter from the captain of the W. B. Hopkins, saying he had been eighteen days after fresh bait, and had not been able to get it, and that he had just taken in salt bait, and was going back to the fishing-grounds.

Q. Must he not have considered it very important to get fresh bait to have remained at Newfoundland 18 days?—A. I don't know about that part of it.

Q. He remained there 18 days to procure fresh bait, and then did not succeed?—A. Yes.

Q. Then your opinion is based upon what I call hearsay, statements you have from others?—A. Yes.

Q. If your opinion differed from that of those who were present, you would not press your opinion against theirs? Suppose your opinion differed from theirs as to the length of time it occupied to get bait, and some were to say it did not occupy more than 24 hours, you would not press your opinion?—A. I would not believe it. I would say they could not, in 24 hours, go to Newfoundland, get bait and return to the Banks.

Q. Or in 48 hours?—A. I would doubt that it could be done in 48 hours, under the most favorable auspices.

Q. It is a mere opinion on your part; you never tried it?—A. I never went in there after bait. We thought we were running our voyage if we went there.

Q. It is only of late years that they have gone there for bait?—A. Yes.

Q. This practice is now adopted by a large number of the fleet?—A. Yes, quite a number of the fleet got in.

Q. This year a large number of the American fleet have been in?—A. Not more than last year.

Q. What proportion went in last year?—A. I should say not over one-half.

Q. Would you think that a vessel possessing salt bait would fish on equal terms with a vessel possessing fresh bait?—A. No.

Q. If it took four or five days for a vessel to furnish itself with fresh bait, then it would be more successful than a vessel possessing only salt bait?—A. Yes.

Q. Supposing fresh bait could be obtained in three, four, or five days, would a vessel obtaining that fresh bait in that time have much greater advantages in catching fish over those having only salt bait?—A. If a vessel could go in, get fresh bait and get back again, all in three days, perhaps she would.

Q. Two vessels fishing together, one with fresh and the other with salt bait, have you any doubt as to what the result would be?—A. Their chances would be about equal.

Q. Have you ever seen it tried?—A. No.

Q. Why do you think their chances would be equal?—A. From what I have heard and from my own experience. From what I have heard from my fishing captains and from observation I have made; that is, not personal observation, but from the ideas I have gained from my own vessels and from the result of the vessel which did not go, and those which did go to Newfoundland after bait.

Q. What captain was it who told you that a vessel with salt bait fished on equal terms with a vessel having fresh bait, and fishing alongside?—A. No captain ever told me that. I never said that.

Q. I understood you to say, in answer to a question I asked you, that they would fish on equal terms and that you heard that opinion from some captains?—A. No.

Q. Do you wish the Commissioner to understand that a vessel fishing with salt bait alongside of a vessel fishing with fresh bait would be on equal terms with that vessel as to chances to catch fish?—A. No.

Q. Which would catch most?—A. The vessel with the fresh bait.

Q. Decidedly so?—A. Yes.

Q. If practical fishermen were to state that of two vessels so circumstanced, one with salt and the other with fresh bait, that having salt bait would hardly catch any fish, in other words, that you cannot catch fish with salt bait if there is fresh bait around, you would coincide with that opinion?—A. I would coincide with this: that if two fish are swimming at the bottom and there is fresh and salt bait at the bottom, the chances are that the fish would go to the fresh bait first.

Q. Then the result would be that a vessel having fresh bait would take fish in preference to the vessel with salt bait?—A. Yes.

Q. Then it must be a great advantage to get fresh bait?—A. No.

Q. Explain what you mean?—A. My theory is this: there is so much time wasted in going in after fresh bait that the difference in the catch between salt and fresh bait does not compensate.

Q. And the time you have taken is what?—A. I should say an average of ten days on each trip.

Q. If it turned out you were wrong in that opinion, your conclusion would fall to the ground because your premises were wrong?—A. Yes;

if parties should substantiate the view that it does not take three days, my opinion would fall to the ground.

Q. You were only once in the gulf fishing mackerel?—A. No, I was not fishing mackerel in the gulf.

Q. You were interested in the Marshal Ney?—A. Yes.

Q. A vessel of 40 tons, which caught 75 barrels; do you know where she took them?—A. No.

Q. Why did you leave off American coast-mackerel fishing?—A. For several reasons. In the first place, I did not like the way our people were sending out their vessels, and I knew if I kept in the business I should have to adopt it.

Q. What was that?—A. By giving the crew a share of the whole catch, the owners furnishing the vessel and fitting it out.

Q. Do I understand you to mean that it would not be profitable to pursue that plan?—A. I did not care to take the risk on myself. That was one reason. The other reason was, that my brother, who was interested with me in business, died some two years ago, and his estate had to be sold up, and his part of the vessels had to be sold, and I thought I was unable to carry on so much business with the capital I had.

Q. You were interested in vessels from 1869 to 1875; how far off from the coast had your vessels to go to catch fish?—A. I have no personal knowledge of that, although I have seen them fishing.

Q. Have you not sufficient knowledge to enable you to state? You remember you expressed an opinion regarding Newfoundland fishermen, and you never saw them fishing?—A. They are supposed to fish on the Georges Banks, around Massachusetts Bay, and on the coast of Maine, as far east as Eastport.

Q. How far off from the coast?—A. Sometimes they catch the fish close in to the coast, but I never saw them catch any off from the coast.

Q. You have seen some catching them close in. Have you not got information from the captains and those engaged in fishing respecting the distance from the shore at which they take fish?—A. I know they have been caught on Georges Banks, from what my captains have told me.

Q. How far off are Georges Banks?—A. About 100 miles.

Q. Is it not a fact that the fish are taken 8, 10, 15, or 16 miles out, as a rule?—A. I should not say so far off. More than one-half are taken within five or six miles of the shore.

Q. You think as close in as six miles?—A. Yes.

Q. In regard to the vessels you sent to the gulf, you trusted to the bait they would catch upon the Banks; they got bait with nets?—A. I was in the vessel.

Q. She did not take clams?—A. No.

Q. And the consequence was the voyage was a failure?—A. She did not get enough fresh bait.

Q. And the voyage was a failure?—A. She did not get a full fare.

Q. What did she get?—A. Four hundred and seventy-five quintals.

Q. What ought she to have got to be a paying fare?—A. Five hundred and fifty quintals. The vessel was capable of taking 600 quintals.

Q. Did you make anything out of the voyage?—A. I did.

Q. Much?—A. No; about \$50.

Q. Clear of all expenses?—A. Yes.

By Mr. Foster:

Q. As a sharesman?—A. Yes.

By Mr. Davies :

Q. What is the name of the vessel ?—A. North Cape.

Q. What was the size of the vessel ?—A. Fifty-five tons, carpenter's tonnage.

Q. How many should she have taken ?—A. Six hundred quintals.

Q. How many did you get ?—A. Four hundred and seventy-five quintals.

Q. That same year ?—A. Yes.

Q. Without getting any bait except what you caught on the banks ?—A. Yes.

Q. Fishing with trawls or hand-lines ?—A. Trawls.

Q. Entirely ?—A. Yes.

Q. Were you captain ?—A. No.

Q. Who was captain ?—A. Jesse Wyley.

Q. What year was it ?—A. Eighteen hundred and fifty-nine.

Q. Is Jesse Wyley here ?—A. No.

Q. Will he be here ?—A. I don't know.

By Mr. Foster :

Q. Where is he ?—A. He is in Provincetown.

Q. How much would you have made if you had got 600 quintals ?—

A. Probably we would have made \$300 apiece.

Q. The additional quintals would have been chiefly profit ?—A. Yes.

Q. Did you get any wages besides the \$50 ?—A. No.

Q. You only got your amount as sharesman ?—A. Yes.

By Sir Alexander Galt :

Q. In regard to those vessels you send to the Grand Banks, do they fish with trawls or with hooks and lines ?—A. We send them to fish, some with trawls and some with hand-lines.

Q. It has been stated before us that trawls require fresh bait ; has that been your experience ?—A. It is better to have fresh bait.

Q. Witnesses have told us that with trawls the bait lies on the bottom, and if it is not fresh the fish will not take it.—A. They will not take it as well as fresh bait, but they will take it if they cannot get anything else, and if they cannot get fresh bait.

By Mr. Davies :

Q. If they can get fresh bait the fish will not take salt bait ?—A. If there is no fresh bait they will take salt bait.

By Sir Alexander Galt :

Q. The trawlers go to Newfoundland for fresh bait ; are those the only vessels ?—A. Yes.

Q. Those that fish with hooks and lines are fitted for that particular mode of fishing and don't go ?—A. Yes.

By Hon. Mr. Kellogg :

Q. What bait did you speak of as being taken from fish ; what part is taken, and how much is the amount ?—A. If we fish with trawls, we sometimes cut out the entrails of fish and what we call the pope and then at times we cut up small halibut for bait.

Q. You use the inside parts of fish ?—A. Yes ; halibut entrails are considered very good bait.

Q. In regard to bird-bait, what birds do you catch ?—A. Haglet, and what we used to call Mother Carey's Chickens.

Q. And gulls ?—A. Very seldom.

Q. How do you use birds for bait ?—A. We cut them up and pound them up.

By Sir Alexander Galt :

Q. When your vessels have been in Newfoundland, have they ever sold any fish ?—A. Not to my knowledge ; if they have done so, it has been without giving an account to the owners.

No. 12.

MONDAY, *September 24, 1877.*

The Conference met.

JAMES W. GRAHAM, master mariner, of Wellfleet, Mass., was called on behalf of the Government of the United States, sworn and examined.

By Mr. Trescott :

Question. You have been a fisherman by profession ?—Answer. Yes.

Q. How old are you ?—A. I was 44 last December.

Q. How long have you been fishing ?—A. I was about 30 years in the fishing business, beginning in 1847, when I was 14 years old.

Q. You were engaged in the mackerel fishery entirely ?—A. Yes.

Q. When did you first go out ?—A. In 1847, when a boy, on our shore.

Q. What line of shore do you mean when you say "our shore" ?—A. It might include anywhere from about Cape Henry, on the Virginia coast, to the mouth of the Bay of Fundy, off and in shore. I was fishing along there for four or five years—until 1851.

Q. What did you do in 1851 ?—A. I went into the Bay of St. Lawrence.

Q. In what capacity ?—A. As a sharesman on board of a vessel.

Q. What was her name ?—A. She was the *Josephine*, of Wellfleet, Captain Curtis.

Q. That was the year of the great gale ?—A. Yes.

Q. Where did you go, and where did you fish ?—A. On our first trip, we fished about Prince Edward Island. During the spring of that year, I went out south, and off Block Island. We got about 100 barrels. We then came in and fished out for the bay, where we caught 320 barrels on our first trip.

Q. Then what did you do ?—A. We went home, landed them, and returned to the Bay of St. Lawrence.

Q. What did you get on your second trip ?—A. 220 barrels.

Q. Whereabouts did you catch your fish on your first trip ?—A. Back of Prince Edward Island, from New London up to North Cape, and some of them on Bank Bradley. We caught a few within 3 miles of the shore, but I do not mean to say that we fished usually within 3 miles of the land.

Q. What proportion of the 320 did you procure within the three mile limit ?—A. That is a hard question to answer ; a rough estimate would be perhaps 30 or 40 barrels.

Q. Where did you fish on the second trip ?—A. From Port Hood down the shores to Margaree. We caught nothing within three miles of the coast of Cape Breton, but in drifting down back and forth we caught perhaps 20 or 30 barrels within three miles of Margaree.

Q. What did you do in 1852 ?—A. I was then in the same schooner, the *Josephine*.

Q. Did you go south that year?—A. Yes; and got from 100 to 150 barrels.

Q. When did you get to the gulf?—A. Somewhere about the very last of June or the 1st of July. I was not captain at the time, and I cannot be very exact on the point.

Q. What was your catch?—A. Three hundred and twenty barrels; we filled the vessel.

Q. Where did you get them?—A. As well as my memory serves me, we caught 100 barrels on Bank Bradley. We procured the balance in the Bight of Prince Edward Island, from North Cape down to St. Peter's and New London.

Q. Was this within the three-mile limit?—A. No, not all; part of them were taken within it, and part of them without.

Q. What proportion of the 220 were taken within the three-mile limit?—A. Well, I should think, likely one-half.

Q. That would be 110?—A. Yes; that is the case as near as I can judge.

Q. What did you then do?—A. We went home and fished on our shore.

Q. What did you catch there?—A. About 200 barrels.

Q. And where did you fish the next year, 1853?—A. On our shore.

Q. What did you get?—A. About 700 barrels, I think.

Q. And in 1854?—A. I was then in the George Chaddock. We caught somewhere between 800 and 1,000 barrels on our shore.

Q. And in 1855?—A. I was then in the bay on the George Chaddock, Captain Deguire. I was in this schooner during these three years.

Q. In 1855, what did you get in the bay?—A. 240 barrels.

Q. Within the limits?—A. To the best of my recollection, we caught nothing within the limits. We fished over at the Magdalen Islands and off Banks Bradley and Orphan.

Q. What did you do in 1856?—A. I was in the George Chaddock, on our shore.

Q. Entirely?—A. Yes; as far as the catch is concerned I could not specify.

Q. In 1857, what did you do?—A. I was in the John S. Eagan, Captain Kemp.

Q. Whereabouts did you fish?—A. We first went to the bay and got 325 barrels.

Q. Where?—A. Some of them back of Prince Edward Island, and others on Bank Bradley and at the Magdalen Islands. I do not think that we caught any during that trip within the three-mile limit, but we might possibly have so taken a few; still, I cannot say; I cannot be positive on the point.

Q. What did you do then?—A. We went home, landed our fish, and came into the bay for another trip, when we caught twenty barrels at the Magdalen Islands.

Q. Did you go right home again?—A. Yes; and we caught 250 barrels after we arrived home.

Q. What did you do in 1858?—A. I was in the schooner Benjamin Baker, Captain Kemp. We went to the bay two trips, and on our first trip we caught 225 barrels.

Q. Where?—A. Off North Cape, and on Banks Bradley and Orphan.

Q. And whereabouts the second trip?—A. We only then took 35 barrels at the Magdalen Islands.

Q. Where did you go from them?—A. Home, and fished on our shore, catching about 225 barrels.

Q. Where were you in 1860?—A. In the schooner *Empire*, Captain Newcomb. We were in the bay during the first part of the season, taking 140 barrels off the Magdalen Islands and Bryon Island. We afterward went home and caught 430 barrels on our shore. In 1859 I was not fishing, but coasting.

Q. Where were you in 1861?—A. I was in the *Empire*, Captain Newcomb, on our shore. We only fished part of the year. We did not do much in the fall, when I was on a trading voyage.

Q. What did you do in 1862?—A. I was in the *Mary B. Dyer*, Captain Purvere.

Q. What did you catch?—A. I could not say exactly; but we took from 500 to 600 or 700 barrels.

Q. And in 1863?—A. I was then in the *Mary B. Dyer*, Captain Purvere, in the bay and on our shore. We caught 280 barrels in the bay.

Q. Where?—A. Over at the Magdalen Islands and on Banks Bradley and Orphan. We afterwards fished on our shore and took about 300 barrels.

Q. What did you do in 1864?—A. I was in the schooner *Maria Webster*, Captain Newcombe. We went to the bay and got 320 barrels. We landed 200 in Bouche Bay, and returning into the bay, caught 210 barrels more; in all we carried 530 barrels out of the bay that year. We did not transship any.

Q. What proportion of these did you take within the limits?—A. We so caught a few on our first trip; that is a hard question to answer; but I could not say that we so obtained more than from 20 to 40 barrels that year.

Q. What did you do in 1865?—A. I was in the *Mary B. Dyer*, on our shore.

Q. What did you do?—A. I cannot remember; that year is almost a blank to me.

Q. And in 1866?—A. I was then on the *C. W. Dyer*, in the bay, on two trips as master.

Q. What was her size?—A. About 160 tons.

Q. What did you do?—A. On our first trip we only got 180 barrels.

Q. Where?—A. Principally at the Magdalen Islands.

Q. What did you get on the second trip?—A. About 120 barrels. We did not fish within the limits. We caught that trip principally off North Cape.

Q. And in 1867?—A. I was then in the schooner *Flinback*, two trips in the bay.

Q. What did you get at your first trip?—A. About 180 barrels.

Q. Where?—A. Principally on Bank Bradley and over at the Magdalen Islands.

Q. How about the second trip?—A. We took then about the same number—180.

Q. Where?—A. Part of them down towards East Point, and part right off North Cape.

Q. Did you obtain any within the 3 mile limit?—A. No.

Q. Had you then a license?—A. Yes.

Q. What was your object in buying a license; was it to fish within the 3-mile limit?—A. I had two reasons for doing it; one was that if I went into the bay and fished anywhere back of Prince Edward Island, I considered from what I had seen in former years that I was at any time just as liable to be seized 10 miles off shore as 3 miles off; and another reason was, that as fish were to be caught sometimes inshore, I wished to have the chance of so securing them if any were so to be had.

Q. When you say that at any time, according to your experience, you were as liable to be seized within 10 miles as 3 miles of the shore, you mean that you had seen American vessels liable to seizure when they were not within the limits?—A. I have seen American vessels bothered by cutters and driven off, when I will take my oath that they were more than 3 or 6 miles from the shore. The distance was in question at the time from headland to headland, drawing a line between them, and I did not like to take my chances; that was my idea in taking out a license.

Q. Where were you in 1868?—A. I was running with fruit between the West Indies and Boston.

Q. And in 1869?—A. I then gave up my vessel and went in the schooner *E. L. Rich*, Captain Jenkins.

Q. Where?—A. On our shore.

Q. Entirely?—A. Yes; we landed 1,250 barrels.

Q. Where were you in 1870?—A. I was in the schooner *Finback*; we caught 250 barrels on our shore, and then went to the bay, where we took 180 barrels.

Q. Where?—A. All to the nor'ward, on Banks Bradley and Orphan, &c.

Q. And in 1876?—A. I was then in the schooner I command now; and we took 390 barrels on our shore. I built her, however, for the fruit trade.

Q. Then you have had considerable experience mackerel-fishing?—A. Yes.

Q. Taking into consideration your whole experience in this respect, and that of the people with whom you are accustomed to live and conduct your industry, what is your opinion concerning the privilege of fishing within three miles of the coast in British waters; which privilege is the greater, that of being able so to fish in these waters, or that of having the old duty put back on colonial-caught fish, with exclusion from British waters within the limits?—A. If I were now engaged in the fisheries, as I used to be, I would prefer a good deal to have the duties on, and take my chances about going in.

Q. With your experience of your town, which is a fishing town entirely, what is your opinion of the value of the American shore fishery as being sufficient to keep your fishing industry afloat?—A. As far as the experience of my town goes—I have no statistics from any other—the Gulf of St. Lawrence fisheries are of no account to us at all, as far as I have looked into the question during the last few years. I have not made a business of studying it up for any number of years, but taking the last three or four years, during which I have studied it up, I find that the bay fisheries are of no account to us at all; and I think that I can prove it.

Q. During the last 6 or 8 years you would say that the majority of the Wellfleet vessels have prosecuted the fisheries on the American shore?—A. Yes, decidedly.

Q. Do you know anything of the habits of the mackerel, and, if so, do you believe that the testimony given as to their spawning on the American shore is correct?—A. I am convinced that the mackerel spawn on the American shore; this is the case with any amount of them.

Q. Why?—A. I have seen there young mackerel which could not have been produced from spawn deposited anywhere else; they were very small.

Q. How large were they?—A. I saw them this spring around home when coming to New York; and the last of July I saw them on a calm

day back of Long Island, and midway between this island and home. I then saw any amount of schools of mackerel, small and fine. I tried half a dozen times, desiring to procure a fresh mess, and I could not catch any longer than one of my fingers; these must have come from spawn deposited this year; this is the idea which I have formed as to these fish, and it is an idea which I have heard scientific men advance. We would see thousands of barrels of these mackerel; and any man knows what a school of fish is. These schools extended as far as the eye could reach.

Q. With your experience of fishing in the gulf, do you consider that there is any very much greater danger incurred in fishing about the Magdalen Islands than in any other portion of the gulf?—A. No; I consider them the safest fishing grounds to be found anywhere in the gulf inshore. Of course, if you are in the middle of the gulf you are safe.

Q. Do you consider them safer than the bight of the island for fishing purposes?—A. Yes; if a man is a practical seaman, he understands that the outermost part of the island is safer than the bight of it, for then you can carry sail and go anywhere, while in the bight you are jammed in. The gale of 1851 proved that; and I do not see the use of arguing it.

Q. As to the harbors, Malpeque and Cascumpeque, do you think that they afford security against danger?—A. Malpeque is a comparatively safe harbor when you are in it, although I have seen vessels lost there by drifting on shore; this was in 1867, I think. I was in there when several vessel went adrift. It is a bad harbor to enter during a gale of wind. The C. W. Dyer, in which I was, was nearly lost while going in there. I do not consider Cascumpeque a safe harbor to enter at any time; a vessel is liable to go ashore if an east wind blows up.

By Mr. Davies:

Q. You have fished at or sailed from Wellfleet all the time?—A. Yes; I have sailed from there; it is my home.

Q. Are there many vessels which come from that port to the Bay of Saint Lawrence?—A. No; not within the past three or four years; but formerly quite a little fleet did so; say one-third of our vessels came to the bay some years, but I could not give the years.

Q. One-third of the Wellfleet fleet did so some years?—A. Yes.

Q. Give me an idea as to how many vessels came from Wellfleet to the Bay of Saint Lawrence to fish, say ten years ago, in 1867?—A. There possibly might then have been eight or ten; I won't be sure about the number.

Q. So very few—a very small proportion, considering the whole number of the American fleet, came to the bay?—A. Our fleet has for years principally fished on our own shore.

Q. You did not prosecute the gulf fisheries very much, I judge from that?—A. We did not.

Q. Have you gone much over the bay in fishing?—A. I have sailed over the Bay of Saint Lawrence from the Gut of Canso to Cape George as far as Georgetown around the island and up the island to Point Escuminac and Miscou, up to Bonaventure, &c., on the Banks; across to the Magdalen Islands and down as far as Bryon Island, and over to Cape North. I have been all over that ground, but never, I think, to the northward of Bonaventure.

Q. Have you ever fished off the Seven Islands?—A. No; nor off Gaspé; nor anywhere on that ground.

Q. Have you ever fished on the Bay of Chaleurs?—A. No; I was never in there but once—to make a harbor at Port Daniel.

Q. Have you ever fished around the west shore, from Point Escuminac to Richibucto?—A. I have never been up as far as Richibucto. I have been as far as Point Escuminac, but I never fished inshore there.

Q. You never followed the mackerel down there at all?—A. Never close in; but I have fished a little off there.

Q. You have fished around Prince Edward Island?—A. Yes; all the way from North Cape to East Point.

Q. Down to Miminegash?—A. I was never there.

Q. You were fishing in the bight of the island chiefly?—A. Yes; between North Cape and East Point.

Q. I suppose past New London and Malpeque?—A. Yes.

Q. Did you ever go into the harbor along there at night?—A. I was in Malpeque a great many times.

Q. Was it the custom of the American vessels to go in there about dark?—A. Well, some of the small vessels make a practice of going in every night, but I was never in a vessel that did so; we went in for wood and water. In Wellfleet we never fish Sundays, and generally Saturday night we used to go in and stay over Sunday; I do not profess goodness, but Wellfleet vessels, as a class, never fish on Sunday.

Q. Were you accustomed to take shelter at night in the harbors?—A. No.

Q. You did not fear to fish off the coast of the island outside the limits?—A. Not in the early part of the summer; I was never fishing close enough in to be afraid of fishing there at any season of the year; I do not consider any place dangerous in July, because anybody knows that easterly winds are not prevalent during July back of the island or anywhere else.

Q. What winds are prevalent on the north shore of the island in July?—A. South and southwest winds, I think.

Q. Blowing off shore?—A. Yes; but after August 10th they are liable to be caught.

Q. The winds are almost invariably off shore in July?—A. Yes.

Q. Do you mean to say that there is a change in the wind in August?—A. Yes.

Q. How does it then blow?—A. The prevailing wind is still west and southwest.

Q. And that prevailing wind renders the north side of Prince Edward Island practically as safe as possible?—A. Yes, while it lasts; but after the 10th of August I think you are liable at any time to be caught by an easterly wind, and when the wind is from the eastward that is a dangerous place, owing to the bars. It is not safe then for vessels drawing over eight feet of water, unless the captain is very well acquainted with the coast.

Q. After the 10th of August or 10th of September, which would you say?—A. I think from the 10th of August out this is the case.

Q. Have you been there very much about the 10th of August?—A. I have fished in the bay during several falls as far as into October and as late as the 10th of that month about the island.

Q. Do you think that an easterly wind is very dangerous there?—A. Yes.

Q. Why?—A. Because, if it comes on to blow, it gets up a sea in shoal water; and, naturally, with an easterly wind the weather thickens up, and you cannot see where you are going; and there will be such a sea on the bar that it will not be safe to go into a harbor.

Q. You do not think that it thickens up about the 19th of August?—
A. I was in the greatest scrape I was ever in off Malpeque Bar.

Q. And that scrape frightened you?—A. No.

Q. When was that?—A. In 1866 or 1867; I was in the schooner *W. Dyer*; I was fishing then just in the lay of the land off Malpeque and of the high land off New London.

Q. How far off?—A. Probably 12 or 15 miles.

Q. That would take you well clear of the bight altogether?—A. Yes.

Q. What possible danger could you be in 12 or 15 miles off?—A. We hove to as usual under foresail—a vessel makes leeway under foresail—and I was not called to until 12 o'clock at night, when, perhaps, we were 7 or 8 miles off the land; a good breeze was blowing from the eastward, and we raised our sails to carry us out, because I did not consider that we would be safe in going into Malpeque harbor at night, for there was not half a light at the place: it never was otherwise. We were going straight out when the wind blew away my foresail and left the mainsail jib.

Q. Was not all that liable to happen not only in the bight of the island, but almost anywhere?—A. There would have been no danger if we had not been in the bight and back of the island; under other circumstances we would have had no trouble in getting off with our jib.

Q. If the wind was blowing east?—A. I do not say that the wind there is direct east, but it is an easterly wind.

Q. What possible difficulty could there have been in your getting clear off around North Cape?—A. My schooner is of 160 tons, Baltimore built, drawing 12 feet of water; I consider her as smart as any vessel in our fleet, and when I went over by North Cape I did not find over 4½ fathoms of water, which was not near enough for the purpose.

Q. You were 12 miles off the bight of the island?—A. Yes.

Q. And you drifted within seven miles of the shore?—A. Yes.

Q. Now, with an easterly wind blowing, what possible difficulty were you in?—A. The wind blew away my sails. When I speak of the wind being easterly there, I mean that the prevailing wind is from the north-east and southeast.

Q. You were seven miles off New London; and can you not run off without the slightest difficulty there?—A. No.

Q. Drawing a straight line from North Cape to East Point, how far will it run off New London?—A. Twenty-odd miles.

Q. Have you measured the distance?—A. I do not know that I have.

Q. Is it on that supposition that you base your statement?—A. No. When I went across the bar there were only 4½ fathoms of water.

Q. If the wind is as you state, is there any difficulty to be experienced with respect to a vessel being seven miles off shore?—A. Yes, in a gale of wind.

Q. What would be the case with a westerly wind?—A. You could not go ashore in a westerly gale if you tried to, if off shore at the place I am speaking of; but, at the same time, you could not get around East Point.

Q. If a westerly wind was blowing, and you were in the bight of the island, could you not easily run around East Point?—A. No; but you could drift off to sea.

Q. No danger is to be apprehended, as far as the island coast is concerned, in such a wind?—A. No.

Q. But with an east wind danger is to be feared?—A. Yes: when the wind is northeast and southeast.

Q. Is a southeast wind an off-shore wind?—A. No; it then blows straight up the shore.

Q. A southeast wind at Prince Edward Island is not an off-shore wind?—A. No; it blows up the bight of the island.

Q. Is not that blowing off the island shore?—A. No.

Q. But when you had reference to a northeast wind, to what part did you allude?—A. I speak of where I was. I do not know about East Point; we were talking about the bight of the island.

Q. You say that a southeast and an easterly wind are dangerous there?—A. I say that it is dangerous there in a northeast and southeast gale; and I will leave that for corroboration to any practical seaman either of the United States or Canada, if he speaks the truth.

Q. Did you ever lose a vessel there?—A. No; not back of Prince Edward Island.

Q. Have you yourself seen any vessels wrecked there?—A. No.

Q. Have you seen any American fishing-vessels wrecked there since 1851?—A. In Malpeque, yes; but never back of the island. I was never near enough to the beach in a gale of wind to see a vessel wrecked there.

Q. Did you ever see a vessel wrecked there?—A. I have seen the remains of any amount of wrecks there.

Q. Since 1851, have you seen one vessel wrecked there?—A. I saw one wrecked on New London Head.

Q. When?—A. I could not say exactly, but I think it was 1867. I was in the Finback at the time. This vessel was going in when she struck the bar and went ashore.

Q. Was she an American vessel?—A. Yes.

Q. Was she lost?—A. She was got off after a good deal of expense had been incurred. Her name I think was the Julia Franklin. She touched on the bar and drifted ashore.

Q. When you were fishing along the bight of the island did you ever run in, throw out bait, and drift off?—A. I have tried in there.

Q. How would you get in if the wind blew off shore?—A. If I thought that there was a prospect of catching fish inshore I would stand in as near as possible.

Q. How near?—A. That would depend on the vessel I was in. If she was small, I would drift in to within perhaps one mile of the shore, if I was fishing there, heave to, and drift off.

Q. And commence throwing out bait?—A. Yes; if I raised the fish I would certainly catch them if I had a license.

Q. But some years you did not require a license?—A. Yes.

Q. During the Reciprocity Treaty, when you had full right to go inshore, what was your practice with reference to fishing off the north shore of Prince Edward Island?—A. I have given the history of my fishing there during two years. I never made a business of fishing inshore save in 1852, when I was with Curtis. We then caught, I think, over 100 barrels out of 320 within the three-mile limit. We would stand in to perhaps one mile of the land, heave to, and drift off; and if we raised mackerel, we would catch all we could.

Q. When you say that you caught one-half within the limits, you mean that you caught the other half when you had drifted beyond the limits?—A. I mean that this was all we got within the limits; the rest we caught on what we call Malpeque, or the New London Head ground. We would fish, say, 12 miles off New London and Kildare, in the lay of the land, and the other half we took on this ground. We fished there considerably that year.

Q. When you make the estimate of one-half as caught within the limits, do you mean to include the fish you took while drifting off.—A. Yes.

Q. Whether within three or five miles of the land?—A. I include one-half of the 220 as being caught while standing in and drifting off.

Q. How far off did you drift?—A. Perhaps three or four miles at the most.

Q. And do you include in the one-half the fish you took when you drifted out four miles?—A. Yes.

Q. What makes you say one-half; do you remember the quantity exactly?—A. No; but I think to the best of my judgment, speaking on oath, that one-half of the fish which we then caught back of the island were taken within the bounds.

Q. Are you speaking from memory alone?—A. Yes; I was not captain of the vessel at the time.

Q. Might the proportion be two-thirds or three-quarters?—A. It was one-half, as near as my recollection goes. I would just as soon swear that it was one-third as two-thirds. It was not over one half or less than half.

Q. And where did you obtain the others?—A. Farther off shore; and we caught 100 barrels this trip on Bank Bradley.

Q. Do you distinctly remember that all of those 100 barrels were taken off Bank Bradley?—A. The number was about 100. We afterwards came over to and fished at the island.

Q. Did you fish any that year towards Margaree?—A. No.

Q. Did you ever fish along the Cape Breton coast?—A. Yes; during my first year, 1851, I did.

Q. When you fished along the Cape Breton coast, between Margaree and Cheticamp, did you ever catch a fish outside of the three mile limit?—A. I never caught any within the three-mile limit off the Cape Breton coast. We caught all our fish in that quarter outside of Margaree, probably from 5 to 6 or 7 miles off the Cape Breton shore; but while drifting off Margaree—which lays $2\frac{1}{2}$ or 3 miles from the coast—and down by Margaree Island perhaps we caught from 20 to 40 or 50 barrels.

Q. And not more?—A. Yes.

Q. Is it not the fact that nearly all the fish taken along the Cape Breton shore, between Margaree and Cheticamp, are caught within one, one and a half, and two miles of the shore?—A. My experience about Margaree was confined to that fall; we only fished there for three or four or five days, late in the fall of 1851, so that I am not a competent judge in this matter.

Q. And how many fish did you take there?—A. Two hundred and twenty barrels. It was then late in October.

Q. And your impression is that you were four or five miles off Margaree?—A. Yes; we drifted down and fished. Probably while passing the island we might have got some fish within the three mile limit, but not over fifty barrels during the trip.

Q. How far from Margaree were the balance taken?—A. Anywhere from four to eight miles off, as near as I can judge.

Q. You are quite sure that the balance was caught beyond the three mile limit?—A. Yes.

Q. How many would that be?—A. Taking 50 from 220 leaves 170, I think.

Q. And you took them all within three or four days?—A. Yes.

Q. Have you a clear and distinct recollection of that?—A. Yes. I

was in the Josephine at the time. I know we went through the Gut of Canso that fall after the 13th of October.

Q. And you took all with the exception of 50 barrels from four to five or six miles off shore?—A. Yes.

Q. How close inshore were you when you caught the 50 barrels?—A. Perhaps within two miles of it; we were drifting down by the island at the time.

Q. In 1851 you were in the George Chaddock in the bight of the island, and in 1853 on the American coast?—A. In 1853 I was in the George Chaddock on our shore.

Q. Have you had anything to assist you in making your estimates save your memory?—A. No; I remember the facts concerning 1851 very distinctly, owing to the occurrence of the great gale that year, and 1852 was a peculiar year; and I remember the facts distinctly. I never fished right along the island.

Q. That was the only time when you fished at the island?—A. To any extent—yes.

Q. In 1851 you fished off Cape Breton?—A. Yes.

Q. And in 1852 at the island?—A. Yes. These were the only two seasons when I made a business of fishing in these particular localities.

Q. Have you had any other means of recollecting or refreshing your memory?—A. No; save that I have consulted some of the men with whom I fished. We talked matters over, and I have made my estimates as near as I could. I have stated the facts on oath, to the best of my recollection.

Q. Had you any Nova Scotians or Prince Edward Islanders with you?—A. Yes. The fall that we fished near Margaree we shipped a number of Cape Breton fellows at the Gut.

Q. Can you give any of their names?—A. No.

Q. In 1853 you fished on the American coast?—A. Yes.

Q. At what distance from the shore there do you generally catch your fish?—A. From Cape Henry up to Long Island and down to Martha's Vineyard and Cape Cod, and along the shore to the Bay of Fundy. We are liable to fish anywhere, from 2 or 3 miles off shore to 30 miles off, save when the mackerel come into the rivers and harbors. I have sometimes made as good trips in the harbors on the eastern shore as I ever made in my life.

Q. Would I be correct in saying that the American fishing-fleet, as a rule, fish from 2 or 3 to 30 miles off the American coast?—A. Yes; I do not know but what you would.

Q. And the bulk of the fish is taken within those limits?—A. Yes; I think so.

Q. Can you recollect what you did in 1857—suppose that you did not look at your book, and trusted to your memory?—A. I do not know that I could.

Q. Now, don't look at your book, and tell me what vessel you were in during 1857?—A. I do not know that I could tell you. I do not believe that you could tell me what case you had in 1857, who was the plaintiff, and who the defendant, and how much you got for it.

Q. Certainly not; but bring it down ten years later—1867—and I could do so.—A. So can I. Then I was in the schooner Finback, and I bought a license that year.

Q. As a matter of fact, can you recollect the vessel in which you were in 1857?—A. I have looked at the book, and I see that she was the J. S. Eagan. I now remember the circumstances a little.

Q. How many barrels did you take?—A. Three hundred and twenty the first trip.

Q. Where?—A. Along the island, off on Bank Bradley, and all round.

Q. In 1857, did you fish, as in 1852, coming within a mile of the shore and drifting off?—A. No; the fish were not there; at least we did not find them there.

Q. Did you try?—A. Yes. Sometimes we came in and made Malpeque Harbor, to get wood and water. We have to come in for water once in ten days or a fortnight, unless we make up our minds to take a big stock with us.

Q. You did not drift off shore and fish in 1857?—A. No; I do not remember of doing so, or of making a business of it. Sometimes, in going out of Malpeque Harbor, we would heave to and drift off, but we never made a business of fishing inshore that year.

Q. And you could not tell what proportion of the 320 barrels was taken in the bight of the island?—A. No.

Q. It might be one-half or two-thirds of the trip?—A. I do not think that we caught any such amount as that there.

Q. Does your memory enable you to state any proportion?—A. We did not catch any within the three-mile limit.

Q. Can you say what proportion of the 320 barrels was caught in the bight of the island?—A. I could not tell you exactly.

Q. Your memory does not enable you to do so?—A. Without statistics, I could not tell you.

Q. How do you know that you did not catch any within the three mile limit; you must have taken some while drifting off shore?—A. And we might not. I have fished many times for half a day and never caught a fish; and I have been fishing a week without taking a fish.

Q. But how was it on that particular trip?—A. I do not say that I remember the incidents of that trip.

Q. And, therefore, you would not like to swear that you did not catch any fish within the three-mile limit?—A. I say I do not think that we so caught any.

Q. You do not think so, but you do not remember precisely?—A. I do not remember of so catching any.

Q. But it may be otherwise; is not your memory pretty blank on that point?—A. If we had then caught any close inshore, I would have been apt to have remembered it, more so than as respects fish caught while traveling around the bay and heaving to here and there and everywhere; catching them close inshore is a peculiarity.

Q. Then, from your experience in this fishery, if a large number of men caught fish within 3 miles of the shore, you think that they would be sure to remember it?—A. I think they would remember such a fact better than their catching them anywhere else. You can locate fishing close inshore, but when you are drifting round all over the gulf, you can not locate fishing places.

Q. And you would be inclined to place a good deal of weight on the statements of men who testified specifically that they caught fish within three miles or one mile of the shore?—A. Yes; if I thought there was any truth in it.

Q. But that one fact in itself would have weight in your mind?—A. Yes; I think it would.

Q. When did you sit down to consider this matter over and make up these figures?—A. When I found that I was coming to give evidence here.

Q. Had you an opportunity to consult many of your crew?—A. I saw some of the men who went with me on some of my voyages; and for some facts, I had to depend on my own memory. In some cases I went to the inspector where we packed and learned the amount of fish our vessel packed on a certain year.

Q. Did you consult any of these men as to whether any proportion of your catch was taken in 1857, within the limits?—A. No. I did not see any of the men who were with us that year.

Q. You have harbored a good deal at Malpeque, and you used to drift off from there; but your impression is that you caught no fish within the 3-mile limit while doing so?—A. I do not say that I harbored a good deal there; but I was there perhaps 3 or 4 times during the season.

Q. You went to Bank Bradley that year?—A. Yes.

Q. When you fished on Bank Bradley, how long would you remain there?—A. I have been there for a fortnight or 3 weeks at a time.

Q. Would that be an exceptional circumstance?—A. It might be so in my case, because I never made a business of fishing altogether on Bank Bradley. I fished there and at the Magdalen Islands.

Q. You mentioned Bank Bradley very often in your evidence?—A. Yes.

Q. Taking the general average, how long did you remain there?—A. If I was in a large schooner fitted out strong, and had plenty of water and everything, and found fish, I would lay there until I got a trip.

Q. And if you did not find fish there, you would run over to the island coast and the Magdalen Islands?—A. I think that I would prefer the Magdalen Islands. I always did so when I was captain.

Q. How often were you captain?—A. I have been captain of the C. W. Dyer, and for two years of the Finback, and that was all, in the bay.

Q. Do you think that around the Magdalen Islands is a pretty good fishing ground?—A. I do.

Q. Did you catch your fish close inshore there, or from 10 to 15 or 20 miles off shore?—A. When we speak of fishing at the Magdalen Islands, we generally mean that we do so about them, within ten or twelve or perhaps five miles of the land.

Q. Do you catch the fish pretty close inshore there?—A. I never did so.

Q. Where did you take them?—A. Anywhere from five to ten or fifteen miles off the land, just in the lay of it.

Q. When you speak of fishing at the Magdalen Islands, you mean that you did so 15 or 20 miles off shore?—A. I mean anywhere from two or three to 15 or 20 miles off.

Q. Did you fish all over that distance?—A. At certain times I did; sometimes I would be in one place, and sometimes in another.

Q. Is it not a pretty boisterous place?—A. I never saw it so.

Q. The water, then, is calm and quiet around these islands?—A. It is about the same as in other places.

Q. We have evidence stating that it is very much windier there than in other places; do you agree with that view?—A. I do not think that this is the case, and I am giving you my candid opinion. In July, I think that it is more windy there than at the island, but I think that this is a benefit to fishermen, because in calm weather you cannot drift, or make sail, or change ground.

Q. Do you not leave these islands much earlier than the shores of Cape Breton or Prince Edward Island?—A. Prince Edward Island, no; Cape Breton, yes.

Q. Then the fleet does not fish any later along Prince Edward Island than at the Magdalen Islands?—A. I do not think that they fish as late.

Q. You think that the fishing-vessels leave Prince Edward Island before they leave the Magdalen Islands?—A. Yes.

Q. Give me the dates.—A. I never saw fishing done in the Bight of Prince Edward Island after the 1st of October.

Q. And you never fished but once in the bight of the island?—A. I beg your pardon; I said I never fished there but once within three miles of the land.

Q. I understood you differently; in 1851 you were in the Josephine?—A. And in 1852 I was in the Josephine.

Q. The only times you mention of being at the island at all were during the years 1851 and 1852, as I have it?—A. You were asking about fishing within the three-mile limit; and those were the only years when I ever made a business of doing so.

Q. And you think that vessels fish later around the Magdalen Islands than off Prince Edward Island?—A. Yes; as far as my experience goes.

Q. Whatever that is worth?—A. Yes.

Q. Do you know Captain Chivari?—A. No.

Q. You seem to have fished every year at the Magdalen Islands?—A. I did so almost every year, and about every trip.

Q. I understand that your evidence amounts to this: that the bulk of your fish was caught at Bank Bradley, around the Magdalen Islands, and in the bight of the island; that a very small proportion was taken within the three-mile limit; that you never fished on the west coast, or in the Bay of Chaleurs, or at Seven Islands; and that you never but once were fishing off the Cape Breton coast—in 1852—and that was off Margaree; and that you then caught about 50 barrels within the three-mile limit, and the balance from four to five or six miles off shore?—A. I believe that is correct.

Q. And you have no experience of fishing-grounds in the gulf save those at the Magdalen Islands and off the bight of Prince Edward Island?—A. I have also fished on Banks Bradley and Orphan, and off North Cape, and so across, wide off over towards Points Miscou and Escuminac. We caught some fish in those places.

Q. As far as the fishing-fleets are concerned, these are accustomed to frequent and fish in the Bay of Chaleurs, off the Cape Breton coast, at Margaree and Cheticamp, off Casumpeque, and around to East Point, and to drift off the island shore; but you had nothing to do with that?—A. I never knew that any vessels made that a custom, as a general thing. Some few scattered vessels fished there.

Q. And if large fleets do so, you were not among them?—A. No; and what is more, if they did it I would have been able to have seen them, though they were 10 or 15 miles from me.

Q. But if a number of men came and stated that they saw 200 or 300 vessels fishing in these places, would you dispute the accuracy of such a statement?—A. If there were 200 or 300 vessels at Bank Bradley I would have been apt to have known of it.

Q. But 200 or 300 vessels might be there one day and the next day be in the Bay of Chaleurs?—A. Yes; if they had a good breeze.

Q. Is it not the practice of many American vessels to follow the schools of fish from one place to another?—A. That would be the case if the fish so moved; but, as a general thing, the fish about July locate themselves on some ground, and there you will generally find them. There are different schools; and one school, for instance, will locate itself at the Magdalen Islands, where you will generally find it. You will not catch them every day; but as a general thing you will catch them; and other schools will locate themselves at Banks Orphan and

Bradley, or about the island, &c. These schools do not change their locations; but the vessels go from one place to another to fish.

Q. Your idea is that the schools remain more or less in distinct places where they have located themselves?—A. Yes.

Q. And adopting that idea when fishing you followed the school at the Magdalen Islands around them?—A. I think that was the best fishing-ground in the gulf during the years when I was in it.

Q. Your fishing has been moderately successful here; you took 240 and 325 barrels. Was this during two trips or two seasons?—A. Those are trips.

Q. I see that for a number of years your returns for the American shore were small?—A. Yes, and I will tell you why: I never fished there all the year; I was not captain then.

Q. Is that the only reason why they were small, say from 1865 to 1875? I am asking you generally.—A. Yes; I was not fishing at all in 1865, but from 1870 to 1875 they were small some years.

Q. Were the catches on the American coast from 1865 to 1870 small or large?—A. Some were small and some large.

Q. What was the general catch?—A. Years differed; some years between 1865 and 1870 the average was fair on our coast.

Q. And how was it from 1870 to 1875?—A. They were very fair.

Q. A little above the ordinary average?—A. No; last year, however, this was the case.

Q. Your opinion is that the fishery on the American coast has been very good all along, and that it has never shown any decrease to speak of?—A. Not for a number of years; there have been poor years and good years. The average has been good.

Q. You have not had a number of poor years back following each other?—A. Not within my recollection.

Q. There have been no consecutive poor years?—A. Not more than is ordinarily the case.

Q. If there has been such a run of good fishing along the American coast, how is it that so many hundreds of American vessels have annually frequented bay?—A. I have already said that our vessels never did make a practice of coming to the bay, because our crews were all home men—Cape Cod men. I have heard a good many Cape Ann men say, that because their crews are made up of Prince Edward Islanders and Nova Scotians, they prefer the bay; and another thing—a good many ship crews that it don't do to put on our coast. You cannot handle them in our harbors and large places. They get drunk, &c., and they prefer to send these crews to the bay where they can be kept clear of rum, &c.

Q. These men are a very lawless lot?—A. Yes.

Q. You think there are two reasons for this: First, the men belong to Prince Edward Island, Cape Breton, and Nova Scotia; and, secondly, they are a very lawless lot, whom it won't do to let into your harbors. Are you sincere in making this statement?—A. Yes; I would rather have fished on our shore, but having had to ship a crew in Boston, I have had to come to the bay, when if I had had a home crew from Cape Cod I would never have thought of it; that is my candid testimony on oath.

Q. And you would extend that testimony, I understand, to the 500, 600, 700, or 800 American vessels that come into the bay?—A. I never saw that many American vessels in the bay.

Q. If you never were in the Bay of Chaleurs to fish, how on earth can you tell how many were there; if you were never at Seven Islands, how can you tell how many were there; and if you were never along between

Margaree and Cheticamp, on the Cape Breton coast, how in the world can you tell how many were there?—A. I have not told.

Q. You deny that 600 or 700 American vessels come to the bay?—A. I will tell you my reasons for doing so. If we have on our shore only about 1,000 vessels, and if 600 or 700 of them are fishing there, I know that they are not in the bay, and that there are only about 400 left.

Q. This is, of course, a matter of opinion?—A. There is no opinion about it. These are the statistics, and figures won't lie.

Q. You would not yield to 10 or 20 or 40 men who swore to the contrary?—A. No.

Q. Will you swear that there never were 700 American vessels in the bay?—A. Yes; I will take oath that there were never 600 which passed the Gut of Canso into the bay.

Q. Were there 500?—A. There might have been, but I do not think it. As to the outside limit I would swear to, I would not go below 600, but still I say, I will take oath to 600, though I won't dare go any further.

Q. When a man takes an oath it is a serious thing.—A. I know what an oath is.

Q. One, then, requires pretty good data to go on?—A. I know that.

Q. Do you know James Bradley, who was called on behalf of the American Government?—A. Yes; I am well acquainted with him.

Q. He is from Newburyport?—A. I was with him in the fruit business.

Q. Is he a truthful man?—A. I consider him to be so.

Q. When in the same position in which you now are—under oath—be deposed:

Q. In those days what was the average number of the fleet that did very much as you did?—A. I don't know that I could make a very good average.

Q. Give an approximate amount, to the best of your judgment.—A. 600 or 700 sail certainly. I have been in the bay with 900 sail of American vessels, but the number has diminished along the last years I went there.

A. He was not read up in statistics. I can prove that that is not so.

Q. Are you a statistician?—A. I have statistics enough to show, in the first place, that we have only 1,300 registered fishing vessels in the United States, and taking out 300—a low estimate as cod fishers—this leaves 1,000 other vessels, as high as I can judge. Well, then, there are 200 vessels under American register on our shore, which are not fit to go into the bay.

Q. Why?—A. Because they are not big enough or good enough. If a man is going from the United States down to the Bay of Chaleurs, he wants a good vessel; and then there are 200 more which have no disposition or dare not go down, and that leaves 600; and so putting in the bay every vessel which is capable of going there at one time, this leaves 600 for such purpose.

Q. You talk about statistics on which you base your evidence; where are they?—A. I have not got them with me save in my mind.

Q. Where did you get them?—A. From hearing the statistics spoken of. I say there are about the numbers I mentioned. I am not speaking with the most minute exactness. I say that we have about 1,300 registered vessels, and I suppose that there are about 300 cod fishers.

Q. You say that the reason why your evidence should be preferred over Mr. Bradley's is that he is a man who is not acquainted with statistics?—A. I did not say preferred. I told you that I could prove to the contrary.

Q. I have read the evidence in which he stated that he had been in

the bay with 900 American vessels, and you answer that he must be wrong?—A. Yes.

Q. Because he had no statistics to go by?—A. I said that he did not speak from statistics; that is what I meant, any way.

Q. But he states that he had been in the bay with them?—A. He never saw 900 American vessels in the bay; and if he was here I would just tell him so.

Q. You have never examined the statistics yourself, and you are speaking from what others have said?—A. I have heard gentlemen say how many registered vessels we have. I never examined the statistics myself. Probably you know; you may have the statistics.

Q. Yes; and if you are wrong in your statistics, or rather in your recollection or presumption of what the statistics are, your evidence on this point would be valueless, would it not?—A. I do not know but it then might be.

Q. Who gave the statistics to you?—A. I could not tell you, but I heard them spoken of.

Q. You base your statement on information obtained from persons whose names you cannot remember, and you never examined the statistics yourself?—A. Yes.

Ry Mr. Trestot:

Q. You state it from general intelligence received by you?—A. Yes.

By Mr. Davies:

Q. Will you undertake to contradict Mr. Bradley on that?—A. Yes.

Q. You will?—A. Yes; my common sense tells me that there were never 900 American vessels in the bay at one time. I do not think that Captain Bradley meant to lie, and I would not say that he would lie in any way or shape.

Q. Then you say that the statement of Mr. Bradley is false?—A. I have nothing to do with Mr. Bradley's statement. I said I never believed that there were 900 American vessels in the bay at one time.

Q. But I ask you that question now.—A. Has he any right to bring me to oath on Captain Bradley's statement?

Mr. DANA. No.

WITNESS. You want me to say that Mr. Bradley is a liar, and I will not say so.

By Mr. Davies:

Q. What do you say?—A. I state that there never were 900 American vessels in the bay at one time.

Q. And if Captain Bradley says so, he is wrong?—A. I am not saying so. You cannot make me commit myself.

Q. I do not desire to do so.—A. You want me to say that Captain Bradley is telling a lie, and I won't do anything of the kind.

Q. You will not swear either that he is telling the truth or a lie; you refuse to answer.—A. I refuse to implicate Captain Bradley as a liar.

Q. Will you venture to assert that Captain Bradley's statement is incorrect?—A. I say that in my opinion and to the best of my ability, I do not believe it, and I know that there never were 900 American vessels in the bay at one time, and that I guess is all that is required of me on that question.

Q. You came to the bay in 1867?—A. Yes.

Q. In the Finback?—A. Yes.

Q. And you took out a license?—A. Yes.

Q. And you did this, you say, for two reasons—first, because you

would not then be liable to be taken 10 miles off shore by the cutters, and secondly because you wished to fish within the 3 mile limit if any such chance presented itself?—A. I considered that I was as liable to be taken within 10 as within 3 miles of the shore.

Q. You stated that you considered so, from what you had seen?—A. I have seen American vessels bothered when outside of the limits.

Q. That is a serious statement.—A. This happened some time before that.

Q. I wish you to name one vessel which was captured or taken by the cutters outside of three-mile limit.—A. I could not tell you the year, but it occurred under the old treaty, when they used to take vessels.

Q. Under what old treaty?—A. I do not exactly know how long this was ago. I have seen 7 or 8 vessels lying below North Cape, when cutters would come down and bother some of them, and the rest would all make sail and go off; and this happened when they were fishing without the bounds.

Q. Give the names of the cutters.—A. There were the Daring, Captain Laybold, and the Telegraph—I do not know the name of her captain. These cutters were in the bay in 1851 and 1852, and along there. I have been fishing when cutters would come down along the island and fire guns, no matter though the American vessels were seven or eight miles off shore. This bothered the fish, and the American vessels would then scatter. Seven or eight miles is my estimate, but I will not swear to the exact distance. I will not swear to the cutter that did it; there were several of them in the bay at the time.

Q. Can you give me the name of a cutter which interfered with an American vessel when seven or eight miles off shore?—A. I do not know that I could. I remember that when American vessels were laying there, one of the cutters came down and fired guns, but I could not tell you which one did it. I think that at the time it was not clearly understood whether the line was to be drawn from headland to headland, or whether the distance was to be measured from the shore invariably.

Q. Whereabouts did this happen?—A. Between North Cape and Kildare, seven or eight miles off North Cape, to the best of my judgment. It was that distance, I think, off the land between North Cape and Kildare.

Q. And in 1867 you remembered that this outrage or act took place?—A. Yes.

Q. And you state that your remembering this 16 years after its occurrence was one of the reasons why you took out a license?—A. That was one of the reasons.

Q. And you seriously give it as such?—A. Yes; I do.

Q. Do you seriously affirm before this Commission that this motive influenced you?—A. That was one thing with others; I say I was anxious; I did not know how far the cutters would bother me.

Q. Name the other vessels.—A. I know that fish had been caught inshore. I had caught some there in 1851, and I wanted to be prepared to take advantage of any such opportunity.

Q. How much did you pay for your license?—A. \$96—\$1 a ton. I obtained it of Vincent Wallace at Port Mulgrave.

Q. You had then been sixteen years without catching any fish within the three-mile limit in British waters, and you never then caught any there of any moment at all during all the years you were fishing in the bay?—A. Yes; 1852 excepted.

Q. And nevertheless you paid \$96 for a license to fish within the

limits?—A. I had not been captain when I was there before, and I did not know but that I would do better there than some others.

Q. Had you not a very shrewd suspicion that a large portion of the fish would be caught within the 3-mile limit that year?—A. I had not, honest; but I was liable to go inshore for water.

Q. You could do that without a license?—A. Yes; and sometimes I would want to put into Malpeque for letters, &c.

Q. And you could have done that without a license?—A. One had to pay light money in those times on going in.

Q. Letters had nothing to do with it. The people were not so inhospitable as to refuse you your letters?—A. No; I always found them very obliging at Malpeque.

Q. Were the fish which you caught within the three-mile limit poor affairs?—A. I cannot tell you how they looked; I have not thought that up.

Q. You say that you would prefer a duty on Canadian fish entering the American market, to the privilege of fishing within three miles of the shore in the bay?—A. Yes; I should if I went fishing.

Q. Why?—A. Because I do not think that the privilege amounts to as much as the duties to us.

Q. Why do you want the duty kept on?—A. Because, in the first place, we would get more for our fish in the United States.

Q. And when the duty is abolished the price naturally comes down?—A. The fish might then be a little cheaper.

Q. That is your opinion?—A. I do not think that the price would come down much.

Q. Then why do you want the duty kept on? Do you not think that you gave a rather hasty answer? You say you would prefer the duty to the privilege of fishing in the Bay of St. Lawrence, within the limits?—A. Yes.

Q. Why, I understood you to say it was because this would keep the price up.—A. That was a little erroneous, I think. Let me think the matter over.

Q. Why would you rather prefer the duty to the privilege mentioned?—A. Because that would keep the price up, and we would then get more for our fish. I thought you had me a little.

Q. I merely want your statement on the point.—A. That is my candid opinion.

Q. You now speak as a fisherman?—A. Yes; if I was fishing, that would be my idea.

Q. All classes of men have selfish motives?—A. I want to get all I can for what I have to sell, and to buy as cheaply as possible.

Q. And in order to get a high price for your fish, you want the duties on?—A. Yes.

Q. You wound up by telling Mr. Trescot that the Gulf of St. Lawrence fisheries were of no account to you at all, and that you could prove it?—A. I meant as respects Wellfleet. I am speaking with reference to the last three or four years—I do not say never. I will say at all events, within the last seven or eight years, as far as I can remember, and for the last three or four years. I can give you some idea why I think so.

Q. You will extend the period to seven or eight years?—A. Yes; during this time they have been of no account to us at all.

Q. What do you mean by that?—A. That we never get any fish there.

Q. Was no quantity of fish taken by American vessels in our waters

during the last seven or eight years?—A. No amount of fish were so caught—I am speaking with respect to Wellfleet.

Q. You would not like to extend that statement to other fishing ports in the United States, would you?—A. I have no statistics respecting those ports, and I do not know anything about that. I am referring to my own native place.

Q. And Wellfleet possesses but a very small proportion of the American fishing fleet?—A. It has a small proportion of it as to number, but we all have large vessels.

Q. Give me the number of your vessels that frequented the bay during the last six, seven, or eight years.—A. I cannot do so save for the two years and this season. One vessel has gone each year to the bay from our port during this time.

Q. It was because very few vessels came down here that you said the gulf fisheries were of no account to you?—A. Of course.

Q. Has any great number of vessels ever come from Wellfleet to the bay?—A. I stated previously that within the last seven, eight, or ten years I thought that perhaps 8 or 10 vessels had come over here; and that is as near as I can remember.

Q. Your vessels that came here never really amounted to anything in number?—A. Not during that time.

Q. Did they do so at any time?—A. Perhaps the number really amounted to something some years, but I could neither tell you the years nor the numbers.

Q. Over the years to which your information extends there never was a time when the Wellfleet fishermen sent any number of vessels to our bay?—A. No more than what I have stated, to the best of my recollection.

Q. Do you think the Gulf of St. Lawrence fisheries are of any value to the Americans, as a whole?—A. If a man goes to any place and gets a trip of mackerel, that is of some value to him, perhaps; but I do not say but that he might have staid at home and done as well or a little better.

Q. What brings the Americans to our waters, then?—A. I have stated my reasons as to the mackerel-fishermen, and I do not know anything about the cod-fishermen.

Q. Have you heard any statement made by any person respecting the bay fishery, or about the fisheries anywhere, as being valuable to you?—A. No; never.

Q. And you would be very much surprised if that turned out to be a fact?—A. Yes; I should.

Q. You do not think that they are of any value at all yourself?—A. I say that they are of no account at all to my place.

Q. Can you give me the name of any person of Prince Edward Island or Nova Scotia or New Brunswick who was among the crews of any one of your vessels?—A. I do not know as I could. Last year about one-half of the crews belonged to these provinces, but I could not tell their names.

Q. Are you fishing this year?—A. No.

Q. Do you know the result of the fishing this year in the bay?—A. Only one vessel of our fleet is there this year.

Q. What is her name?—A. The Ruth E. Newcombe.

Q. With regard to the statistics you mentioned, did you speak respecting the number of vessels engaged in the fisheries as from Massachusetts alone or from all the States—Rhode Island, Connecticut, New York, and Pennsylvania, &c.?—A. I was speaking with reference to the mackerel and cod fisheries; all kinds of fish do not come to the bay.

Q. Do you mean to embrace in your statistics the vessels which go to the Banks?—A. Yes; I include the mackerel and cod fishers.

Q. In the 1,300 you included the Bank fishers?—A. Yes; from the United States.

Q. The figures given in the annual report of the Chief Bureau of Statistics for the commerce and navigation of the United States make your figures 1,300 about 1,000 vessels astray. The number of American and cod-fishing vessels under and over 20 tons down to June 30, 1876, is given as 2,311.—A. I meant registered vessels. I did not refer to boats. I included vessels over 20 tons, and those under that figure are not registered.

Q. But out of the 1,300 you deducted 200 or 300 small vessels.—A. Yes; such as were not fit to come to the bay. It would not be either profitable or prudent to come here in a vessel of less than 50 or 60 tons.

Q. What is the tonnage of these 200 or 300 vessels which remain on the coast?—A. It varies from 20 to the figures just mentioned.

Q. You do not embrace in your gross number any vessels under 20 tons?—A. No; I meant registered vessels, and they are not registered when under 20 tons.

Q. I cannot conceive how it is that you cannot remember the names of some of the persons from Prince Edward Island, New Brunswick, or Nova Scotia who were with you during some of the years you mention.—A. I cannot remember their surnames; I can only recollect that they were called Peter, John, and Bill, &c.

Q. You surely can remember one name.—A. I cannot. I have not thought of it before, and that being so, this is a poor place to do so in. Honestly, I could not now state the name of one solitary man.

No. 13.

DANIEL C. NEWCOMB, of Wellfleet, Massachusetts, master-mariner and fisherman, called on behalf of the Government of the United States, sworn and examined.

By Mr. Dana :

Question. You belong to Wellfleet, and are 53 years of age?—Answer. Yes.

Q. That is your native place, by the way?—A. Yes.

Q. How long have you been a fisherman?—A. 38 seasons.

Q. You are now in commerce?—A. No, I am working on a wharf, packing.

Q. When did you first go into the Bay of St. Lawrence?—A. In 1838.

Q. Did you catch anything then?—A. We got in late in the summer and the catch was small. We only got eight barrels. We were there a month and returned.

Q. Then what did you do the rest of the season?—A. We fished around Cape Cod.

Q. You got how much?—A. 300 barrels.

Q. That was between Cape Ann and Cape Cod?—A. Yes. That was what we supposed to be the catch. I was very young and didn't know much about it.

Q. Now, in '39, did you go into the bay?—A. I did.

Q. Did you do much?—A. We had about the same success as in the preceding year.

Q. That was rather poor. Did you do any shore-fishing?—A. We did.

Q. How much?—A. I don't know. Not a very large catch.

Q. After '39 what did you do?—A. I went shore fishing.

Q. Was that about six years, or what was it?—A. It was from '39 to '45.

Q. What luck did you have those five or six years?—A. Well, we had such luck that we proposed to keep on that shore-fishing for that number of years.

Q. You went in often into port?—A. Yes; we made short trips. I cannot tell the amounts that we caught, not well. We went in every month.

Q. Now, in 1845 where were you?—To the Bay of St. Lawrence.

Q. What did you get?—A. 130 barrels.

Q. Where did you catch them?—A. All over the bay.

Q. Did you catch any of them within the three-mile limit?—A. Not to my recollection. We might have caught a few scattered mackerel, not anything so that I could tell you any number of barrels.

Q. What places did you go on?—A. Bradley and Orphan and the West Shore.

Q. Did you go into the Banks again for a few years? What did you do in '46 and '47?—A. I think there were two or three years that I fished on our shores.

Q. Then after '48 did you go into the bay again?—A. (Consults memorandum.) I am not sure of the dates. I can tell you if I get the year in my mind. In '48 I went into the bay. We caught 350 barrels.

Q. Where did you catch them?—A. The first 40 barrels we caught off Cape Mabou.

Q. Any other place?—A. We caught quite a quantity around the Magdalens, and some off Bradley. We fished anywhere in the bay. We went from place to place to find better fish. They were very poor.

Q. The mackerel were scarce?—A. No; there were plenty of fish in the bay, but they were poor, and we went to different places to find better fish. We found the largest at the Magdalens.

Q. Are you sure you caught that number in 1858? Look at your memorandum.—A. No.

Q. '59, was it not?—A. It was '48.

Q. I was thinking of '58.—A. I went again in '58.

Q. Now, from '48 to '58, what were you doing?—A. Shore fishing again, ten years.

Q. Did you find it lucrative?—A. I did.

Q. Then you began the bay fishing again in '58?—A. I went into the bay again; yes.

Q. What was the result?—A. The result was very poor. We got only 30 barrels.

Q. Were you all over the bay?—A. Yes.

Q. In '59 did you go into the bay?—A. Yes. We made two trips. The first trip we got 150 barrels, and the second, 100.

Q. Where did you get them? Did you catch the second trip at the Magdalens altogether?—A. Yes.

Q. Where did you get the 150 barrels?—A. We caught them on the West Shore partly—Bradley Bank, West Shore, and down the island.

Q. When did you next go into the bay?—A. In 1873.

Q. That is fourteen years after?—A. Yes.

Q. What were you doing during these 14 years?—A. Shore fishing; we call it so. It was on the George's and on our coast.

Q. That includes the George's?—A. Yes. It includes all the mack-

erel-fishing we do from Block Island down along Cape Cod, Cape Ann, and along our shores down the Bay of Fundy.

Q. Then you began in '73 to go into the bay? How much did you catch that year?—A. 250 barrels.

Q. Where did you catch them?—A. We caught 50 barrels up at the island—the first 50.

Q. What part of the island?—A. St. Peter's.

Q. Have you any notion whether you caught them all within three miles?—A. No; I don't mean that.

Q. How was that?—A. I should think we might have caught half of them.

Q. Where were the rest of the 250 barrels taken?—A. 100 barrels off Georgetown Bank.

Q. That is more than three miles off?—A. Yes; that is all outside.

Q. Where did you catch the rest?—A. At the Magdalens.

Q. The next year, 1874, what did you do?—A. I went fishing on our coast next year.

Q. How much did you take?—A. I don't know rightly. I was with another man. I lost my vessel the year before. I think it was 600 barrels.

Q. Off the American coast?—A. Yes.

Q. What were you doing in '75?—A. I have not since been to sea as a fisherman.

Q. You have been putting up fish?—A. Yes.

Q. You have a wharf?—A. Yes.

Q. Do you know how many barrels you put up in 1875?—A. 5,500 barrels, I think.

Q. Now, of these 5,500 barrels how many were from the bay?—A. 155 headed barrels; 140 packed barrels.

Q. Now, in '76 how many did you pack?—A. 11,000.

Q. How many of these were from the bay?—A. 45 barrels.

Q. Do you think that the proportion you put up—45 from the bay out of 11,000, and 140 out of 5,500—is a fair sample of the proportion put up in Wellfleet?—A. I think that was all the vessels we had from our place. I think there was only one vessel in the bay.

Q. What is the greatest number of vessels you have ever had in the bay?—A. I would not like to state the number. We had one year almost all our fishing-fleet there.

Q. What is your whole fleet?—A. It is now 52 sail. Then, perhaps, it was 80 or 90 sail. The majority went into the bay one year.

Q. You had as many as 40 or 50 in the bay?—A. I think so.

Q. Has the bay fishing diminished?—A. Yes, it has, until our folks have become disgusted with it.

Q. Do you think it is of any practical commercial consequence to your people?—A. Our people never set much store by the privileges of the bay. I never did.

Q. They show that by their actions. Now, do you think that the coast fishery, as you call it—that is, the Georges Banks, off Block Island, Cape Cod, Cape Ann, Massachusetts Bay, and down as far as Eastport—do you think that the fishing there of all kinds—I mean hook and line, seines, nets, pounds—what do you think of that fishery as a means of supplying the American market?—A. I don't know hardly how to answer.

Q. Then I will put it more distinctly. Do you think that fishery, well prosecuted, will supply the American market without the necessity of

resorting to the bay?—A. Last year it seemed to me as though it would, but this year the fish are very scarce.

Q. Do you find that you are much helped by what comes from the bay this year?—A. We haven't had anything come in. Only one vessel has come from the bay.

Q. From all you have heard is it promising or not?—A. There seems to be a report since I have been here that it is brighter. Similar reports come from our own coast. Everything was dark when I came away. Some vessels hadn't landed a fish this season.

By Mr. Weatherbe:

Q. You say that your own fisheries are not equal to supplying the United States market last year?—A. This year. I said last year I thought they were.

Q. You thought they were equal to supplying your own market; that is, the whole of your markets. What do you call your market?—A. Well, our market is all over the United States where our railroads go.

By Mr. Dana:

Q. I meant to include in my question the cod Bank fisheries?—A. I am not posted as to the cod-fisheries at all.

Q. But in asking you whether our fisheries would supply our market, I meant to include the Bank fisheries?—A. I don't know anything of the Bank fisheries.

By Mr. Weatherbe:

Q. You answered with reference to your own fisheries alone?—A. Yes.

Q. You were referring to the home fishery?—A. I understood him to ask me if I thought our American fishery would supply our demands, and I replied—

Q. You were speaking of the home fishery alone?—A. Yes.

Q. Are you not astray? Mr. Dana did not mean that. He meant the cod fishery outside in the Gulf of St. Lawrence and on the Banks of Newfoundland?—A. I do not want to touch the cod fishery at all. I was talking about mackerel.

Q. And you meant on the United States coast?—A. I meant the mackerel fishery on the coast last year; that last year I thought, from the price we got for our fish, there was plenty of fish to supply our market. They ruled so low that it was hardly worth while to catch fish.

Q. You are speaking entirely of the mackerel fishery?—A. Yes. I would not talk about the codfish, for I am not acquainted with it.

Q. What do you consider to be the quantity required to supply the United States market?—A. I do not know. I don't take the figures at all. I supposed that if fish were not worth catching on account of the price being so low everybody was supplied.

Q. Suppose the supply was limited. Suppose other fish were very plenty and they were very scarce, what would your opinion be then?—A. I don't understand the question.

Q. I understood you now to have stated, or to have intended to say, that your supply of mackerel and cod on the United States coast was sufficient to supply the demand in the United States, all over the United States?—A. My opinion was that it was last year.

Q. How do you come to have that opinion?—A. When they haul up and don't think it worth while to catch fish I assume that the market is supplied.

Q. Were there any mackerel caught outside of the United States

shores last year?—A. I presume there was. There were 55 barrels caught in the Bay St. Lawrence.

Q. When you were speaking of your market were you not confining yourself only to your own town?—A. We don't eat many fish in our town. I packed 11,000 barrels last year.

Q. How many mackerel does your market require?—A. I don't know.

Q. Can you give us any idea?—A. I haven't the least idea.

Q. Have you any sort of an idea whatever how many of those mackerel last year that did supply that demand were caught in the United States waters?—A. No, I have not, only as to my own town of Wellfleet. In the town of Wellfleet there was 38,000 barrels put up.

Q. Outside of that you can't give us any idea whatever?—A. No.

Q. Do you recollect when there was an agitation in regard to the Washington Treaty coming into operation?—A. I heard of it. I don't recollect anything particular.

Q. Did you engage with those who sent a delegation to Washington?—A. I didn't take any part in any political movement.

Q. In 1838 and 1839 you fished?—A. Yes.

Q. In the Bay St. Lawrence? Then from 1839 to 1845 you ceased to fish there? You fished on your own shores?—A. Yes.

Q. Then afterwards when did you fish on your own shores? It was after '45?—A. Yes.

Q. You have nothing in your books, I suppose, except dates?—A. No.

Q. And these dates, of course, come from your records?—A. All of those except one. I went with other men into the bay.

Q. Did you put those years down?—A. They are all down in the book up to 1873. Then I was master.

Q. From '39 to '45 you went on your own coast?—A. Yes.

Q. You didn't take any account of those years?—A. I only took a list of the vessels I went in, not the quantity of fish caught.

Q. You didn't take down the names of the vessels you fished in on your own coast?—A. Yes; all the vessels I ever went in.

Q. What vessels did you fish in in the Gulf of St. Lawrence? Did you take a list of them?—A. I have them.

Q. I wish you had made a list so that you could put it in?—A. I can give you the vessels and the tonnage.

Q. Tell me if you can name any Nova Scotians or Canadians you fished with?—A. In the bay?

Q. Yes.—A. I could not tell you one.

Q. You cannot give the name of a single man?—A. Do you mean in the vessels with me?

Q. Certainly; that is what I want to find out.—A. I don't carry it in my mind. It is 15 years since I went into the bay.

Q. These you have written down there in the (memorandum) are from memory?—A. Yes.

Q. Not from any book?—A. No.

Q. Then if your memory is defective the book is defective?—A. Yes, that is so.

Q. Now, you have looked at the book. If you have it from your memory why can't you give it to us without looking at the book? I can understand from the rules of the evidence it is allowable to look at any writing or instrument made at the time, but I never heard of it being allowed to write down from memory and give evidence from paper.—A. If I am sitting down by myself I can count them up, but in a room like this it is different.

Q. We had an American master here the other day. He gave the

names from the records, but I don't understand your writing down evidence and reading it. I never heard of that in any court.

Mr. DANA. Suppose you didn't, can't you go on with the examination? Mr. WEATHERBE. Certainly.

Q. You cannot give the name of one single Canadian, Nova Scotian, or British subject who fished with you during the whole period you fished in Canadian waters?—A. No.

Q. Can you tell me how many British subjects fished in the same vessels, or can you give me anything like the proportion?—A. In 1858 I was in the Bay St. Lawrence. I think we had three Frenchmen from Harbor Bouche, in the E. J. Lawton. I think it was three. I will not be positive.

Q. Where did you fish in the E. J. Lawton?—A. We didn't catch them anywhere. We tried everywhere.

Q. You haven't down in your book at all any memorandum of where you caught your fish?—A. No.

Q. Read what you have in your book for 1858.—A. In 1858 we caught 30 barrels in the schooner E. J. Lawton, 70 tons burden. That is just what I have in the book.

Q. You have 30 down there?—A. Yes.

Q. How did you remember to put down 30?—A. I will tell you. I recollect because I was a man just starting life, and I had to pay \$22 as my proportion.

Q. You have to look at the book now to tell me?—A. I have; to show the dates; that is all.

Q. It was not necessary to look to find the number?—A. No; give me the vessels and I will tell the numbers.

Q. In 1859, can you tell me without looking at the book?—A. I think the Winfield Scott.

Q. That is the next year. We will suppose it is the Winfield Scott. Tell me what you caught.—A. 250 barrels. Two trips.

Q. Now, you recollect that, don't you?—A. Yes.

Q. The reason why you recollect with regard to the previous case is that you paid something. Perhaps with this vessel the reason why you recollect is different. Is it the same in this case?—A. No; we made a fair voyage that time.

Q. You told me the reason you recollected the previous year was because you had to pay out money, which I admit was a good reason. There may be some other reason in this case?—A. We went only two or three times to various places. If we had gone a great number of years in succession I might not remember, but by skipping a number of years and going to the bay in that way I can keep it in my mind.

Q. How many years altogether did you fish in the Gulf of St. Lawrence?—A. Seven years.

Q. Then you give me as the reason of your recollecting, that you made so few trips?—A. Yes.

Q. That is the reason you recollect you got these 250 barrels. Is that in round numbers or exactly?—A. That is to the best of my knowledge.

Q. To the best of your recollection?—A. Yes.

Q. But in round numbers?—A. Yes.

Q. You had no record and could not get any record?—A. The collector told me he wanted me to go down and testify to the number of fish I caught in the Bay of St. Lawrence, and I supposed I could tell every year, but when I came to figure up the Winfield Scott bothered me. Every other one was quite clear.

Q. So you are not sure?—A. I am not sure. I am not sure that was

the exact number. We may have caught a few more, but I can say without flinching that we caught 250 barrels. We made two trips.

Q. Why didn't you go on fishing in the bay?—A. We thought we could do better on our coast.

Q. As you had done so poorly the year before, why did you go in the bay that year?—A. I do not know that I had any particular reason. I was in the vessel and wherever the captain went I went. I shipped in the vessel and she concluded to go in the bay.

Q. That is no reason at all, as you could go where you liked.

Q. That year you got 250 barrels. Having got only 30 barrels the year before, you came to the bay again, and yet when you got 250 barrels this year you didn't go again. Can you give any reason for remembering what proportion of these fish you caught within three miles of the shore?—A. Well, it is impressed upon my mind because the inshore was forbidden ground, and if we caught anything we would be apt to recollect it.

Q. That is one of the best reasons in the world. I am speaking now of the whole period. You understand that, I suppose. Perhaps you don't understand me? Do you understand my question to refer to any particular year?—A. No.

Q. You understand it to refer to all the years?—A. Yes.

Q. Of course that is a very good reason. Did you ever hear of the practice of lee-bowing boats?—A. Never, until I got down here.

Q. Do you mean until you came down here as a witness?—A. Yes.

Q. Where did you hear it?—A. I don't know. I have heard it remarked.

Q. Did you ever hear the expression?—A. I have heard the expression lee-bowing.

Q. You always tried to keep outside the three-mile limit?—A. I did not say so.

Q. You would not come in, because it was illegal to go in? I understood you to say that.—A. I never said that. You asked me if I caught any fish inside.

Q. I asked you what reason you had for remembering why you had caught fish inside. You told me, as I understood, and you can correct me now if I am wrong, that you understood it to be illegal?—A. I did not understand your question so. I understood you to ask the question why I remembered when I caught mackerel inside. I said because it was forbidden ground.

Q. I understand now the reason you recollect. I confess I misunderstood you. What do you mean by forbidden ground?—A. Inside of three miles.

Q. Why was it forbidden grounds? Who forbade you?—A. The government.

Q. Did your owners tell you not to go inside?—A. It was the government.

Q. Then it was illegal?—A. I presume it was.

Q. You understood it was wrong?—A. I did.

Q. And that you were liable to seizure?—A. Yes.

Q. That is to say, that if you were caught inshore you might have your vessel confiscated? Then you ran a great risk, did you not?—A. I considered I ran a risk by being within five miles.

Q. You did know you were running a risk inshore?—A. Yes.

Q. You considered all the time you were fishing in the Gulf of St. Lawrence that you were running a risk, didn't you? You say you were

running a risk. Were you running a risk all the time you were in? Did you consider you were?—A. Not when I was fishing off shore.

Q. But whenever you went in you considered you were running a risk?—A. Yes, when I was trespassing.

No. 14.

MOSES PETTINGELL, of Newburyport, Mass., inspector of customs, and formerly a fisherman, called on behalf of the Government of the United States, sworn and examined.

By Mr. Foster:

Question. You were formerly a fisherman?—Answer. Yes.

Q. How early were you in Bay St. Lawrence fishing?—A. In 1842.

Q. How many years after that were you there?—A. Ten. I was in the bay ten different years, between 1842 and 1858.

Q. The rest of the time you were fishing on the United States coast?—A. Yes.

Q. Fishing for mackerel?—A. Yes; solely.

Q. Where did you catch the fish in the gulf?—A. The first year, 1842, I was in the schooner *Patrol* as sharesman. We caught about 150 barrels of mackerel to the northward of the Magdalen Islands. Sometimes we caught sight of Cape Gaspé and Bonaventure Island, but we never saw St. John's Island. It was called on our chart Prince Edward Island or St. John's Island. The next year I was in the schooner as captain and caught 80 barrels.

Q. Whereabouts?—A. At Magdalen Islands; I saw North Cape once during the voyage and only once. I was young and I knew it was a very dangerous place, and I did not want to be caught there.

Q. During all the years you have been in the gulf, where was your principal fishing done?—A. At Magdalen Islands; occasionally on Bradley, but not often.

Q. Did you make fair catches?—A. Yes; fair.

Q. During that term of years you fished a number of seasons on the United States coast?—A. Yes.

Q. How did you do there?—A. Very well; some years we made a good thing and some years a poor thing.

Q. What would be the average number of barrels a season you took on the United States coast?—A. About 400 barrels a year. I had a small vessel in those days. The vessels were not so large as now.

Q. How many trips did you require to make to take that quantity?—A. Half a dozen in one season extending for a fortnight or three weeks, as it might happen. If fishing near home, we would make short trips; if we went to George's or Mount Desert, they would be longer.

Q. You remember the mackerel fleet from Newburyport and some other of the leading fishery towns for a good many years back. Take the years when you were fishing here, how did the towns stand in regard to the number of mackerel vessels they sent out; which had the most, and so on?—A. Gloucester, I think, for a great many years, led; Wellfleet came next, and Newburyport next.

Q. How many vessels had Newburyport mackereling in the gulf when you left off fishing?—A. I think there might have been 25 hailing from Newburyport and manned by Newburyport men.

Q. How many mackerelers in all, including those on our own coast?—A. There was about an equal number in the gulf and on our coast in those days.

By Sir Alexander Galt:

Q. In what year was that?—A. 1858.

By Mr. Foster:

Q. How many mackerelers sail from Newburyport now?—A. We have 7 vessels that are licensed by the government, being over 30 tons. We have a little fleet of vessels under 30 tons.

Q. How many vessels from your port have been engaged mackerel-fishing in the bay this summer?—A. The Miantonoma went to the bay, and two or three weeks ago she packed from the bay 96 barrels.

Q. Name any other vessels?—A. S. C. Noyes, G. W. Brown, Lizzie Thompson, Greyhound, S. E. Babson, Edward Burke. The Edward Burke arrived with 150 barrels, which she caught with trawls on Bradley and sold in Gloucester.

Q. How many mackerelers from your town are in the bay?—A. There were six; there are five there now, if they have not left since I came from home.

Q. Are they seiners, or hook-and-line vessels?—A. Two are seiners and three hook-and-line.

Q. Has any returned?—A. The Miantonoma.

Q. What did she do?—A. She packed 96 barrels, and she caught 10 barrels on the way home; she packed altogether 106 barrels for the voyage. Had she not lost her mainmast, she would have had a fare in three days after she left Cape Sable.

Q. Did she fish altogether in the gulf?—A. I don't know where she fished; I was not there. The vessel came down to the gulf and got something like 100 barrels.

Q. What was the last year in which you were interested in fishing-vessels?—A. In 1872 or 1873, I think I had a little interest indirectly.

Q. In mackerel vessels?—A. Yes. She went to the Banks one voyage, and was in the bay two years.

Q. Without dwelling on particular voyages, I ask you where the greater part of the mackerel has been taken by vessels you have been in, that have come to the gulf, and by such other vessels as you have reason to know about?—A. I can speak from my own observation. I have overhauled the statistics of my own personal accounts as I settled with the crews and owners, and I find I packed from the time I was skipper to the end, 1,600 barrels from the bay and 3,200 from our shores.

Q. And of those you took in the gulf, what portion, so far as you can judge, was taken within three miles of the shore?—A. I never caught a single mackerel within three miles of the land in any part of Bay St. Lawrence, except at Magdalen Islands, where I had a perfect right to do so.

Q. Then, if you were asked whether it would make any difference to you, and prevent you from fishing in the gulf, if you were otherwise disposed, that you were excluded from fishing within three miles of the shore, what would your answer be?—A. My answer would be that I would rather, to-day, if I was 25 years old, and going to prosecute the fishing business, be debarred from going into Bay St. Lawrence at all. I would not want to go there.

Q. Why?—A. For the very reason that I don't think it is a profitable business. I never found it so there. I never went there of my own free will in my life. I went there because of the majority of the vessel was owned outside myself, and we have to please our owners sometimes.

Q. If you were coming to the gulf, would you regard it as a matter of consequence to be deprived of the right of fishing within three miles of

the coast?—A. No. I think the mackerel are eel grass mackerel right inshore, and if I fitted out a vessel and had a skipper who would go there, I would not have him go in the vessel. The inshore mackerel are not as good by fifty per cent.

Q. Then it is hardly necessary to ask you whether you regard it better to have a duty on mackerel than not?—A. I suppose it would be better. It might enhance the price of our fish a little; I don't know that it would. The fish caught in Nova Scotia vessels does not make a great deal of difference in the States, as regards the price.

Q. Why?—A. Because we catch so many more there. If the quantity caught by American fishermen in American waters fell off, then the mackerel which came from Nova Scotia would be very high in price; but the main thing is this: if the quantity of mackerel caught by American fishermen in American waters is plentiful we have low prices, if the quantity is scarce, we have high prices; and this without regard to imported mackerel.

Q. How many boats from Newburyport are engaged in fishing?—A. We have from 40 to 60 open boats, having 2 men each.

Q. Where do they fish?—A. From one to six miles from land, winter and summer. I have myself fished 25 years in winter.

Q. What do they fish for?—A. For codfish altogether in the winter.

Q. And for what in the summer?—A. For cod, mackerel, hake, and haddock.

Q. And then going beyond open boats, what have you?—A. We have deck boats that are not large enough to be admeasured by government. We don't admeasure anything under five tons. These deck boats go and stay out every night in summer. We have from 15 to 20 of these. Then we have another class, which comes under the registry laws, vessels from 5 tons to 30. We have from 15 to 20 of these.

Q. Where do they fish?—A. They catch cod off the bar of the mouth of the Merrimac, off the Island of Shoals, and off the Jeffreys. They fish for haddock in winter.

Q. Do they come into British waters?—A. No.

Q. Do any vessels less than 20 tons come up beyond the American side of the Bay of Fundy?—A. No; I never knew one under that size, present tonnage. I knew a vessel which went to Bay Chaleurs and which was 25 tons, old register, about 15 tons new measurement.

Q. That was how many years ago?—A. 25 years ago.

By Mr. Davies:

Q. You are not a practical fisherman now?—A. No.

Q. What is the position you now hold?—A. I am inspector of customs, and I hold four or five different offices.

Q. How long have you held office?—A. Seven years on 25th of last month.

Q. You are a Republican in politics?—A. I suppose you are right in that.

Q. You were down in the bay, I understood, for ten years?—A. About ten years off and on, not continuously.

Q. From 1842 to 1858 you were some years on your own coast?—A. Yes.

Q. You fished chiefly to the north of the Magdalen Islands when in the bay?—A. Yes.

Q. Did you catch all your fish there?—A. Chiefly.

Q. In 1844 in what vessel were you?—A. Vesper, and caught 250 barrels.

Q. In 1845 ?—A. In Equator, and took 225 barrels.

Q. In 1846 what vessel ?—A. Equator, on our shores.

Q. In 1847 what vessel ?—A. The Far West. I built the vessel, and the owners insisted on the vessel coming to the bay.

Q. You did not like British waters for mackerel-fishing ?—A. No.

Q. What year did the Far West come down to the bay ?—A. 1848.

Q. The owners insisted on the vessel coming down. They knew better than you did ?—A. They thought they knew better than I did.

Q. What did you get ?—A. About 240 barrels.

Q. And the next year, 1849, what vessel were you in in the bay ?—A. I was on our shores.

Q. In 1850 what vessel ?—A. I was in the bay one trip in the Far West, and got 160 barrels.

Q. In 1851 where were you ?—A. On our shores.

Q. And in 1852 ?—A. In the bay.

Q. In what vessel ?—A. Far West. We got 250 barrels.

Q. The owners still forced you there ?—A. Yes; it was the year of the gale.

Q. No; 1851 was the year of the gale. What did you take on your own coast in the year of the gale ?—A. 500 barrels.

Q. How many trips ?—A. That was for the whole season, from 1st May to 1st November.

Q. In 1853 where were you ?—A. On our shores.

Q. And in 1854 ?—A. In the bay.

Q. How many barrels did you get ?—A. 225.

Q. In the same vessel ?—A. Yes.

Q. In 1855 where were you ?—A. On our shores.

Q. And in 1856 ?—A. In the bay.

Q. How many barrels did you get ?—A. 60 barrels, in the same vessel.

Q. The owners were evidently comparing the value of the bay fishing with the fishing on your shores, for they sent the vessel to each in alternate years. Where were you in 1857 ?—A. I was piloting on the American coast.

Q. Where were you in 1858 ?—A. In Bay Chaleurs, schooner Elliott; we got 280 barrels.

Q. You have said you took all your catches off the shore. Did you ever get in sight of the land ?—A. Yes.

Q. Where ?—A. At St. John's Island. I saw it the last time.

Q. Were you very close ?—A. I was in a harbor there.

Q. In what harbor ?—A. Malpeque.

Q. Did you not cast a line overboard to see if mackerel were there ?—A. No. I had no desire to do so.

Q. You would not have taken them if you could have got them ?—A. With a northeast wind blowing and night coming on, would you heave to to catch mackerel with a vessel on which there were 225 barrels ?

Q. You were in the harbor of Malpeque ?—A. Yes.

Q. What were you doing there ?—A. I went there out of the way of the storm.

Q. Why did you not fish there ?—A. In the harbor ?

Q. When you went out next day.—A. If I had desired I could have done so; I had no desire.

Q. Why did you not fish ?—A. Because I did not like inshore mackerel.

Q. You call them eel-grass mackerel ?—A. I do.

Q. You never caught any mackerel within ten miles of the shore in

your life in the bay, except a few round the Magdalen Islands?—A. I don't recollect.

Q. Have you caught any mackerel in the bay within 5, 6, or 7 miles of the shore?—A. I might probably.

Q. But what is the probability?—A. I don't think it is very probable.

Q. If you never caught any mackerel inshore at the bay, how can you tell whether they are eel-grass mackerel?—A. From what I have seen brought home in vessels.

Q. How did you know where they were taken?—A. Because they told me where they had taken the fish.

Q. Whole cargoes?—A. No.

Q. Did they select particular fish as those caught within the limits and others as caught outside?—A. Inshore and off shore.

Q. They can tell whether the mackerel have been taken inshore or off shore?—A. Yes.

Q. They can select the fish taken within the limits?—A. Yes. I am speaking about inshore fish.

Q. What do you call inshore?—A. Five, six, seven, or eight miles out.

Q. Do you come before the Commission as an expert possessing a knowledge of the fishing business and of fish?—A. No.

Q. Do you represent yourself before the Commission as a gentleman who has a knowledge of the mackerel fishery?—A. I was born and brought up to fishing, and followed it up to 1858 from the time I was nine years old.

Q. Do you represent yourself as such?—A. I don't represent myself to be a great expert; but I may be a common-fisherman expert, and I know about as much as any good fisherman who has common sense and a knowledge of the fisheries.

Q. You never caught mackerel within the limits, and yet you venture the opinion that fish caught within one, two, three, or four miles of the shore are eel-grass fish?—A. Yes.

Q. And not so good as others? You make that statement, and wish to have it taken down?—A. Yes.

Q. I don't speak with regard to the American coast, where, I understand, you catch mackerel 15, 20, and 30 miles out?—A. Yes; 100 miles.

Q. The fish are not close to your shore?—A. Yes.

Q. How close?—A. Near to the rocks.

Q. From 100 miles out to the rocks inshore?—A. At times.

Q. Generally?—A. I have caught them one hundred miles out and I have caught them in the surf.

Q. You call those fish caught inshore eel-grass fish, and they don't sell as well?—A. Yes.

Q. How far out are the eel-grass fish caught?—A. To about the Jeffreys, about fifteen miles off from Cape Ann.

Q. The mackerel caught within fifteen miles of shore are of an inferior character?—A. Yes.

Q. Are they known as eel-grass fish?—A. They are.

Q. All the witnesses, especially American fishermen, will know them as such?—A. That is, inshore fish.

Q. Fishermen will know what I refer to when I speak of eel-grass fish?—A. Yes; those coming from our port.

Q. Don't you know that mess mackerel are taken inshore in the gulf, and that no mess mackerel are taken more than three miles from the shore?—A. I don't know it.

Q. Do you know the contrary?—A. Yes; I know it from catching them.

Q. When?—A. In 1848.

Q. I believe in 1848 they were taken a long distance from shore. Can you speak of any year from 1851, especially during the last ten years, when mess mackerel have been taken beyond three miles from shore in the bay?—A. Yes.

Q. From your own knowledge?—A. I have not been there since 1851, and I don't know.

Q. Are you inspector of fish?—A. No.

Q. When fishermen come in with a cargo, can the inspector, on examining the fish, tell what have been taken within the limits and what outside?—A. I think he can; I think I could.

Q. Could you, when examining fish, tell that certain fish had been caught within ten miles of shore and were eel-grass fish?—A. I never caught any of that kind in the bay.

Q. You saw them?—A. Yes; in my own port.

Q. You easily recognized them?—A. As easily as spring and fall mackerel; they were not so fat.

Q. You put the limit on your coast, within which eel-grass mackerel are caught, at 15 miles. How far from shore do you place it as regards the bay?—A. I should judge about ten miles.

Q. Your catches in the bay were not very large?—A. No; I always had small vessels.

Q. You never fished inshore?—A. No; always at Magdalen Islands.

Q. And you gave it up?—A. Yes.

Q. Did you ever fish in Bay Chaleurs?—A. No.

Q. You never caught any on the west shore or off New Brunswick?—A. No.

Q. Nor round Cape Breton?—A. No.

Q. You eventually had to give the business up; it didn't pay you?—A. I got a living all the time; I paid my debts and had something left.

Q. With those small catches?—A. Yes.

Q. A vessel of the same size which caught two or three times as much would make a very remunerative return?—A. Allow me to explain why I got a living on small catches. When I was captain of the *Far West* I owned one-third of the vessel, and a man who was with me owned a sixth. Mr. Pettingell (I was junior then) and Mr. C. H. Ireland owned the other part of the vessel. They gave me \$35 a month to sail the vessel, and I derived an equal share with the merchant at home. I hired all the rest of the crew and paid the provision bill, and allowed the vessel 25 per cent. After all duties were paid and provision bill, I drew a straight line dividing the balance. I made up to \$1,000 a year in those small vessels.

Q. Then other vessels which caught three times as much fish must have made a handsome thing?—A. They had more men to feed and pay.

Q. What was the size of the vessels?—A. About 57 tons.

Q. Were all the vessels about 57 tons?—A. The largest was 62 tons.

Q. With those returns of fish you cleared \$1,000 a year?—A. \$1,000 in the best year. The average would be about \$500. I made a profit on the men more than I caught with my own hands.

Q. You would not make a great deal out of them?—A. No.

Q. The chief part was out of the catch of mackerel?—A. Yes.

Q. When you were making that very fair profit why did you leave

the business?—A. I can tell you if necessary; it was something domestic.

Q. You said that the duty on mackerel might enhance the price, and afterwards qualified the statement by doubting that imported mackerel would hurt the price. Supposing one-half the mackerel consumed in the United States was imported mackerel, would not that seriously affect the price?—A. Yes.

Q. Very materially?—A. Yes.

Q. Suppose one-fourth of the consumption was imported, would not that materially affect the price?—A. Very slightly. I don't think a great deal.

Q. You think that one-fourth of a given quantity of food consumed in a country being imported does not affect the price?—A. It might slightly.

Q. Does not the law of supply and demand govern that matter as well as others?—A. I wish to say a word. The business of fishing has changed very much in the last 25 years in the United States. A large portion of mackerel caught in United States waters are eaten fresh, without being salted or cured. That fresh mackerel has taken the place of salt mackerel to that extent, and it is the same in regard to codfish. We used to supply the western part of the State of New York with salt mackerel, but they have now fresh eight months out of the year, and the people there want very little salt mackerel.

Q. Does it not necessarily follow that the large quantities of mackerel taken on your shores and salted must fall in price fresh fish having taken their place?—A. There is not such a demand unless fresh mackerel are scarce.

Q. The price of your salted fish, if your theory is correct, must go down?—A. I think it has some.

Q. Does your theory and practice accord? Has the price of salted mackerel gone down? Can you tell the price to day and say whether it ever was as high?—A. I have got \$28 a barrel for mackerel.

Q. What is now the price?—A. I don't know.

Q. You cannot tell whether it is high or low?—A. I think I have heard that Captain Bradley, of the Miantonoma, got \$22 and \$24 for his mackerel, No. 1 and No. 2. That was within the last three weeks.

Q. Is not that a high price?—A. Very high.

Q. Your statement of fact is to a certain extent correct, but if it is correct that fresh fish have taken the place of salt fish, how is it that those salt mackerel brought such a high price?—A. Because there were not any.

Q. Does not the price depend on the supply?—A. There had not been any caught before that time. Look at the prices a week hence.

Q. Does not a scarcity enhance the price of mackerel?—A. It would in time.

Q. If 250,000 barrels of mackerel are required for consumption in the United States yearly, and 50,000 barrels were shut off by reason of duties or other causes, would not the price of the 200,000 barrels necessarily go up?—A. That would depend whether we had herring plentiful or not. There is a good deal to look at.

Q. I can quite understand that if the people have to be supplied with a certain quantity of food, and can supply themselves with cheaper food, they will procure cheaper food?—A. Just so.

Q. Suppose 250,000 barrels of mackerel are consumed yearly, and I go and buy 100,000 barrels and lock them up, will not the price of the other 150,000 advance?—A. That would be like bulling the market.

The fish would have to come out by and by, as they would not be worth much another year. So you could keep up the market for a few days, the same as speculators in flour and grain and other articles do.

Q. To put it another way. Suppose that instead of 250,000 being required for consumption, only 100,000 barrels were required, would those 100,000 barrels bring a higher price than if 250,000 were required?—A. Some years when we have had as large a quantity of mackerel inspected as there has ever been, we have got a good price. We have sometimes got low prices when there has been a small catch. This was owing to the demand, which is regulated by other businesses as much as anything else.

Q. Did you oppose the Treaty of Washington, or were you in favor of it?—A. I did not know anything about it till it was settled.

No. 15.

ISAIAH C. YOUNG, of Wellfleet, Mass., outfitter of vessels, called on behalf of the Government of the United States, sworn and examined.

By Mr. Trescot:

Question. You have been engaged in mackerel-fishing during some years?—Answer. Yes.

Q. During what years?—A. From 1858 to 1871.

Q. In 1859, where did you go?—A. To Bay St. Lawrence.

Q. How long were you there?—A. About two months.

Q. What did you catch?—A. Sixty barrels.

Q. Whereabouts?—A. Most of them at Magdalen Islands and Bank Bradley; we caught a few about Prince Edward Island.

Q. How many?—A. Five to eight barrels.

Q. Did you go there in 1859?—A. Yes.

Q. In the same vessel?—A. Yes.

Q. What luck had you there?—A. We got 150 barrels.

Q. What proportion of them did you take within the limits?—A. About 120 barrels when we first went into the bay near East Point; the remainder we caught off shore and over at the Magdalen Islands.

Q. After 1859 were you in the gulf?—A. No.

Q. Where were you engaged fishing in the mean time?—A. On the coast of the United States.

Q. How long?—A. From the season of 1860 up to the season of 1871.

Q. Upon an average have you done well in fishing on the American coast?—A. Yes; very well.

Q. What is the average catch you made?—A. Probably 500 barrels.

Q. Have you any idea from your own knowledge of the business of Wellfleet, and your experience since you have been in business, what number of barrels of mackerel have been inspected there?—A. I can tell you for the last ten years.

Q. For the last ten years, what do you suppose has been the number?—A. There has been inspected in Wellfleet during the last ten years 274,591 barrels.

Q. How do you know that?—A. It is the sworn statement of the general inspector.

Q. From your knowledge of the business, can you form any idea as to what proportion of that number of barrels has been inspected as mackerel from the gulf?—A. I got the best information I could get in our place. I went to the inspector, who has been there for twenty-five

years, and he said he had not kept his books so that he could give it, but 5,000 barrels was a large estimate.

Q. What sail of mackerel vessels have you this year belonging to your port?—A. Fifty-four vessels.

Q. How many went to the gulf this year?—A. One.

Q. How many went in 1875?—A. One.

Q. And in 1874?—A. I think none. There was one in 1876.

Q. In the last ten years an exceedingly small proportion of the mackerel fleet of Wellfleet has gone to the gulf?—A. Very small.

By Mr. Weatherbe :

Q. You say 274,591 barrels were inspected in Wellfleet, during what period?—A. In the last ten years.

Q. Where did you get those figures?—A. They come from the general inspector's report for the State of Massachusetts.

Q. Where did you get them?—A. The general inspector sends the statements to the various inspectors, and I got that from one of our inspectors.

Q. You got the printed return?—A. From the inspector.

Q. You asked him for a statement in regard to the number of barrels inspected?—A. I asked him for the amount of mackerel inspected at Wellfleet for the last ten years, and he gave me the figures.

Q. This was sent to him from where?—A. From the general inspector at Boston. I suppose so.

Q. How did the Boston inspector get it?—A. That is his business.

Q. How did he get it?—A. From the various inspectors.

Q. From the inspector at Wellfleet?—A. Yes.

Q. The inspector at Wellfleet would send the information to the general inspector, who would send it back to the inspector at Wellfleet?—A. He places it on file.

Q. The general inspector would get it from the inspector at Wellfleet?—A. Yes.

Q. He would know what the quantity was without going to the Boston inspector?—A. I don't know anything about that. This is a sworn statement.

Q. Who swore to it; the inspector?—A. The general inspector.

Q. The local inspector?—A. The local inspector swore to it.

Q. You would not undertake to say it is correct?—A. I would undertake to swear it is as near correct as men can make figures.

Q. There is no return with regard to the proportion of those caught on the different shores?—A. They make no distinction so far as I know.

Q. Have you undertaken to make a distinction?—A. This is the nearest estimate I could get.

Q. How did you make it? because I am instructed that is not correct.—A. I did not say it was correct.

Q. But you want some importance to be attached to it?—A. Certainly.

Q. Where did you get it?—A. From one of the inspectors.

Q. What is his name?—A. Noah Swett.

Q. What did he tell you?—A. That to the best of his judgment and he has been in the business twenty-five years) there had not been 5,000 barrels of mackerel brought into the town of Wellfleet from the gulf during the last ten years.

Q. He kept no record of that?—A. I could not say.

Q. Don't you know whether he kept any record?—A. No.

Q. You never asked him that?—A. I don't think that I did.

Q. I understood you to say you went to the books to ascertain whether there was any record of what had been inspected from the gulf?—A. I don't think so.

Q. Is that correct?—A. I went to the books to see how many fish from the gulf had been inspected in the town of Wellfleet, and I got the general inspector's report. I asked the inspector if there was any way of telling how many barrels of fish had been inspected from the Gulf of St. Lawrence, and he said no.

Q. Now, you say you asked him; did you ask him?—A. I have told you I asked him.

Q. What did you ask him?—A. I have told you what I asked him.

Q. Be kind enough to mention it again.—A. I went to Mr. Swett, he being the oldest inspector, and I asked him the number of barrels that had been inspected in Wellfleet during the last ten years. He said, "I can give you the general inspector's sworn returns." Then I asked him if he could tell me how many fish were inspected in Wellfleet from the Bay St. Lawrence for the last 10 years. He said he could not, but on the best estimate he could make the number would be 5,000 barrels.

Q. That is the only foundation you have for making the statement?—A. Yes.

Q. Did you ask him how he came to that opinion?—A. No.

Q. Was there any information from which he could have judged?—A. He said he could have told me if he had kept his books so. He told me he could not tell; but to the best of his judgment it would be 5,000 barrels.

Q. Did you ask him if he had any record?—A. No. I don't know about that.

Q. You don't remember?—A. I think he told me that, to the best of his judgment, it was 5,000 barrels.

Q. After he had given you the 274,000 barrels, I understood you to say you also asked him if he kept a record of the others?—A. I asked him how many fish had been packed from Bay St. Lawrence.

Q. Did you ask if he kept any record?—A. I am unable to say.

Q. Do you remember whether you said so?—A. I am unable to tell you.

Q. You don't remember whether you said so or not?—A. I asked him if he could tell me how many fish were packed from Bay St. Lawrence.

Q. Have you no other means of knowing?—A. No.

Q. You spoke of catching 160 barrels of mackerel in 1858; where were they caught?—A. In Bay St. Lawrence.

Q. How many years were you engaged there?—A. Two years; 1858 and 1859.

Q. Do you recollect what vessel?—A. Indiana.

Q. Was any British subject on board?—A. One each year; but I am unable to give his name.

Q. Where did he belong?—A. To the Strait of Canso.

Q. Was that his place of residence?—A. No; we shipped him there.

Q. The first year?—A. Yes.

Q. Did you find him there the second year?—A. Not the same man. We got another man from the same place.

Q. You are not able to give the name of either of them?—A. No.

Q. What year was there one vessel from your town in the bay?—A. This year, 1877.

Q. And what number last year?—A. In 1876 and 1875 we had one vessel each year.

Q. Previous to that year, do you know what number of vessels your town had there?—A. No.

Q. Was the number up to that date given from your own knowledge?—A. Yes.

Q. Previous to that year can you give us no idea of the number?—A. No.

By Mr. Foster:

Q. How many people live at Wellfleet?—A. 2,250.

Q. You are acquainted with pretty much all of them?—A. Yes.

By Mr. Tréscot:

Q. Do you know a vessel of the name of R. A. Kingsbury, Captain Mulock?—A. There is no such vessel and no such captain at our place.

No. 16.

TIMOTHY A. DANIELS, of Wellfleet, Mass., fisherman, called on behalf of the Government of the United States, sworn and examined.

By Mr. Foster:

Q. How old are you?—A. Seventy years.

Q. Were you engaged in mackerel fishing during a good many years?—A. Yes.

Q. How many years did you come to the gulf to fish mackerel?—A. Seventeen years.

Q. What year did you begin and what year end?—A. From 1846 to 1873 I believe, inclusive; one year out.

Q. Were you in the same schooner all the time?—A. Yes.

Q. What was the name of the vessel?—A. Pioneer.

Q. What tonnage?—A. 62 tons.

Q. New or old measurement?—A. Old measurement.

Q. Were you captain all those years?—A. Yes.

Q. How many barrels of mackerel did you take in all during the 17 years you were in the gulf?—A. 2,678.

Q. That would be an average of 157 or 158. What was the largest catch you made?—A. 280 barrels.

Q. And what the smallest catch?—A. 62 barrels.

Q. Whereabouts were you in the habit of fishing?—A. From North Cape to East Point.

Q. Off Prince Edward Island?—A. Yes, mostly.

Q. And where else?—A. Off the west shore and on Bank Bradley.

Q. Where did you do your principal fishing on those places; more than three miles from shore, or less?—A. More than three miles.

Q. What is the largest number of American mackerelers you ever remember to have seen together?—A. About 300, I think, from 250 to 300.

Q. Where did you see them?—A. I saw most of them off North Cape, between North Cape and East Point.

Q. What is the largest number of mackerel vessels Wellfleet has ever had in one year in your day?—A. About 100 vessels.

Q. And what is the largest number you have ever known to be in one year in Bay St. Lawrence?—A. From 30 to 40.

Q. How many mackerelers has Wellfleet now?—A. About fifty, I think.

Q. How many has it in the gulf now?—A. There is not one now: it had one there this season.

Q. If you were a young man and a fisherman once more and wanted

to come to the gulf to catch mackerel, would you be prevented from doing it by the fact that you were forbidden to fish within three miles of the shore?—A. I think so.

Q. You would not come?—A. I would sooner fish on our shores now any time.

By Mr. Weatherbe :

Q. If you were forbidden to come within three miles of the shore, would you come at all?—A. It would be under certain circumstances. If there were no fish with us and plenty there, perhaps I might. I cannot say as to that.

Q. From your experience, if you had been restricted, during all the years you came to the bay, from coming to within three miles of the shore, you would not have come?—A. I think not.

No. 17.

D. W. OLIVER, of Wellfleet, Mass., fisherman, called on behalf of the Government of the United States, sworn and examined.

By Mr. Trescot :

Question. You have been engaged in fishing? How old are you?—Answer. 37 years.

Q. How long have you been fishing?—A. 22 seasons.

Q. Mackerel fishing entirely?—A. Yes.

Q. Where have you been fishing?—A. Partly in Bay St. Lawrence and partly on our own coast. Parts of 7 seasons I was in the bay.

Q. Then you had an opportunity to compare the two fisheries?—A. Yes.

Q. As far as your experience goes, which fishery is the more profitable?—A. That on our own shores.

Q. What was your average catch on our shores?—A. Our catches were from 500 to 1,200 barrels.

Q. What was the average catch in the gulf?—A. The catches were from 130 to 460 barrels.

Q. When fishing in the gulf, what portion did you take inshore, within the three-mile limit?—A. Very little.

Q. You have fished inside?—A. I would not swear I had not fished within the limits. I will allow that I have, a little.

Q. As far as the experience of Wellfleet fishermen goes, it is no great advantage to have the privilege of the inshore fishery of the gulf?—A. No.

Q. What is the number of the vessels from Wellfleet which have gone mackerel-fishing this season?—A. 52 sail.

Q. What portion has gone to the gulf?—A. One has been there part of the season, but she came out.

Q. As a general rule, you don't value the gulf fishery, for you send a very small portion of your fleet there?—A. Yes.

By Mr. Davies :

Q. Where did you fish in the bay?—A. I fished in different places in the gulf.

Q. Whereabouts?—A. On Bank Bradley, at Magdalen Islands, and at Bank Orphan.

Q. Any other places?—A. Along the north side of Prince Edward Island.

Q. From East Point to North Cape?—A. Yes.

Q. What year did you fish there?—A. In 1857. I fished from the west shore down the north side of the island.

Q. Was that the only year?—A. Yes.

Q. How many seasons altogether were you in the gulf?—A. Seven, I believe.

Q. Your chief fishing was outside?—A. Yes.

Q. And you made poor catches?—A. Yes.

Q. Did the business pay at all?—A. I made a trip that paid me one season.

Q. With the exception of that, it was not a paying business?—A. No.

Q. You did not fish within the limits at all?—A. I did not, to speak of.

Q. Did the season when you caught your fish along the island, pay pretty well?—A. We were three months, and got 300 barrels.

Q. How was it you stuck in there and did not go out into the bay?—A. We were in there, and thought we would make a business of it.

Q. What was the size of the vessel in which you fished on your own coast when you caught 1,200 barrels?—A. 90 tons, old register.

Q. How many months were you in catching 1,200 barrels?—A. About five months.

Q. How many hands were employed?—A. Thirteen.

Q. Was that considered a good catch in five months?—A. Yes.

Q. Paid well?—A. Yes.

Q. Netting a good profit?—A. Yes.

Q. How much profit would a vessel catching 1,200 barrels of mackerel in five months make?—A. I don't think I could say. The crew got \$300 apiece.

Q. That would not be very extra?—A. It is a very good average compared with what they get down here. Three to one, according to my experience.

Q. Vessels have taken 1,200 barrels in the bay?—A. I don't know.

Q. That would leave a good profit for five months' work?—A. Yes.

Q. Would it leave a large profit?—A. It is according to the quality of the fish.

Q. What was the quality you caught?—A. The quality of the fish was nothing extra that season.

Q. How far from the shore did you take them?—A. We caught them all along the coast of Maine.

Q. Any away down at George's?—A. We did not go down to George's.

Q. 30, 20, and 10 miles out?—A. Yes.

Q. Chiefly ten or twenty miles?—A. Sometimes we were within two or three miles of land. Sometimes we would not be within 50 miles.

By Sir Alexander Galt:

Q. Did you catch the fish with a purse seine?—A. No, with hook and line.

Q. When you caught 1,200 barrels, were they taken with hook and line?—A. Yes. The following season I caught 1,000 barrels which brought \$14,000.

Q. They were better fish?—A. Yes. They were caught on our own shores.

No. 18.

TUESDAY, September 25, 1877.

The Conference met.

GEORGE FRIEND, of Gloucester, Mass., fisherman and sailmaker, called on behalf of the Government of the United States, sworn and examined.

By Mr. Foster :

Question. What is your age?—Answer. Fifty-five years last July.

Q. When were you first in the Gulf of St. Lawrence fishing for mackerel?—A. In 1836.

Q. Do you remember how many barrels you caught that year?—A. About 120 barrels.

Q. Do you recollect where you fished?—A. Mostly all over the bay.

Q. It was a poor year, and you fished all over the bay?—A. Yes.

Q. Did you fish within three miles of the shore?—A. No.

Q. Was there any reason why that should not be done that year?—

A. We found no mackerel there, and if we had, there was a cutter, an English man-of-war, there.

Q. In 1843 and 1844, were you next in the bay?—A. Yes.

Q. Fishing for mackerel?—A. Yes.

Q. What were you, a sharesman?—A. Yes.

Q. Did you own part of the vessel?—A. I owned one-fourth part.

Q. What was the vessel?—A. The schooner Constitution, about 70 tons.

Q. How many mackerel did you take those years, 1843 and 1844?—

A. We took 270 barrels, I think, the first of those years; and from 260 to 270 barrels the second.

Q. Where were they caught?—A. At the Magdalen Islands.

Q. You were in the gulf again fishing for mackerel in 1853, I believe?—A. Yes.

Q. In what capacity were you in the vessel?—A. As a sharesman.

Q. What was the vessel?—A. The Republic.

Q. How many barrels of mackerel were taken?—A. About 280.

Q. Where were they taken?—A. At the Magdalen Islands, North Cape, and on Banks Bradley and Orphan.

Q. When were you next in the bay?—A. In 1855.

Q. When you came in 1855 to the bay, were you skipper?—A. I was.

Q. What was the vessel?—A. The Republic.

Q. Of what tonnage?—A. 102 tons and a few feet, old measurement.

Q. And were you in the same vessel in the Gulf of St. Lawrence during the following years, from 1855 to 1860, inclusive?—A. Yes.

Q. I will take these trips and see where you went and where you caught your mackerel. We will begin with your first trip in the Republic, as skipper. How many trips did you make in 1855?—A. Two.

Q. How many barrels did you take the first trip?—A. About 380.

Q. Where were they caught?—A. At Bank Bradley, North Cape, and a few at Magdalen Islands and Burnt Island.

Q. What did you do with your first trip of 380 barrels?—A. Took them home to Gloucester.

Q. Did you make another trip here that year?—A. Yes.

Q. What time did you leave Gloucester on the second trip?—A. At the latter end of September.

Q. How many barrels did you take on the second trip?—A. If my memory serves me right, 140 or 150 barrels.

Q. Where were they taken?—A. Most of them to the northward of Magdalen Islands.

Q. Did you take any anywhere else?—A. I cannot say we did not take a few. We hauled to, I suppose, in going and coming out of Canso.

Q. At what place did you take any mackerel except at Magdalen Islands?—A. None of any consequence elsewhere.

Q. In 1856 were you skipper of the same vessel, and how many trips did you make that year?—A. Two.

Q. How many mackerel did you get the first trip?—A. I think about 300 barrels.

Q. Where were they taken?—A. In deep water.

Q. Whereabouts?—A. At Bank Bradley and off Gaspé.

Q. How far out?—A. At Banks Orphan and Bradley; we are not always in one position; our position varies 20 or 30 miles.

Q. Were they taken within sight of land?—A. In sight of Purse's Hill.

Q. Did you get the whole 300 barrels thereabouts?—A. We went to Magdalen Islands for water and tried for mackerel, but caught very few. Most of them were caught where I have mentioned.

Q. During the second trip of 1856 how many mackerel did you get?—A. About 200 barrels.

Q. Where were they taken?—A. At Magdalen Islands.

Q. Were any of those taken inshore?—A. I don't think so.

Q. In 1857 how many trips did you make?—A. Two.

Q. How many barrels did you get the first trip?—A. About 300.

Q. Where were they taken?—A. At Banks Bradley and Orphan and down at Magdalen Islands.

Q. Was any portion of the catch of the first trip in 1857 taken inshore?—A. I think not.

Q. How many barrels did you get the second trip?—A. I think about 200.

Q. Where were they taken?—A. At Magdalen Islands, and in the fall we took about 40 barrels in Cape North Bay.

Q. Were they taken inshore at Cape North Bay?—A. Yes. They were taken up in the bay, within perhaps three or four miles of the beach, with half that distance from the shore on the north side, North Cape.

Q. In 1858 what were you doing?—A. Mackereling in the bay.

Q. How many trips did you make?—A. Two.

Q. How many barrels did you get?—A. I think about 250 barrels the first trip.

Q. Where were those taken?—A. At the Magdalen Islands and northward of the Magdalens.

Q. What do you mean by northward?—A. When we lose sight of Purse's Hill, as we call it, we call ourselves to the northward of the Magdalen Islands.

Q. Did you get the fish up toward Seven Islands?—A. We got them at Seven Islands.

Q. Did you fish there at Seven Islands?—A. Yes; and we came to Cape St. Anne on the south side.

Q. When you fished at Seven Islands, how did you catch mackerel?—A. With boats.

Q. With dories?—A. In stern boats and little Nova Scotia boats with round bottoms.

Q. Did you catch the fish inshore there?—A. Yes, inshore.

Q. Did you fish in the middle of the river there?—A. No.

Q. Why not?—A. It is rough and mackerel don't bite.

Q. Because the current is too strong?—A. The current is strong and mackerel won't bite.

Q. So when you say fishing was done between Seven Islands and St. Anne, you don't mean that it was done in the middle of the Gulf of St. Lawrence?—A. No.

Q. But over in the bay at St. Anne and the bay at Seven Islands?—A. Yes, we anchored and went in small boats round the rocks.

Q. Did you fish that way at St. Anne as well as at Seven Islands ?—
A. Yes.

Q. All the fish you caught during that first trip in 1858 up at Seven Islands and between there and Cape St. Anne, were caught inshore ?—
A. Yes.

Q. Do you remember what portion of your first trip was so taken ?—
A. I think about 70 barrels.

Q. Where were the rest taken ?—A. At the Magdalen Islands; we fished round and up to Purse Hill that trip.

Q. Did you fish inshore during the first trip in 1858, at any place except at St. Anne and Seven Islands ?—A. No.

Q. Take the second trip of 1858, where did you fish ?—A. At the Magdalen Islands and off Margaree. I caught some few off Margaree.

Q. Were those taken off Margaree caught inshore ?—A. I suppose we were outside of three miles. Three miles is very near at Margaree.

Q. And the second trip you caught 150 barrels ?—A. Yes.

Q. In 1857 did you made two trips ?—A. Yes.

Q. How many did you get the first trip ?—A. 300 barrels.

Q. Where were they taken ?—A. Most of them at Magdalen Islands.

Q. Any elsewhere ?—A. No.

Q. On the second trip how many did you take ?—A. I think about 150 barrels.

Q. Where were they taken ?—A. At Magdalen Islands, most of them.

Q. Did you take any fish, during that autumn trip, at what is called Fisherman's Bank ?—A. Yes.

Q. Where is that ?—A. It is about in a line from Port Hood to Georgetown, off Cape St. George to the eastward.

Q. It is on Cape Breton shore ?—A. Yes.

Q. How far from any land is Fisherman's Bank ?—A. I think about 10 miles.

Q. In 1860 did you make a trip ?—A. One trip.

Q. Where did you go ?—A. To the Magdalen Islands.

Q. How many barrels did you take ?—A. About 260.

Q. You were fishing in the bay every year from 1855 to 1860 inclusive ?—
A. Yes.

Q. And in those six years you made eleven trips, two trips a year every year, but the last ?—A. Yes.

Q. You appear to have caught 2,635 barrels, or 240 barrels a trip. How many barrels was the vessel fitted for ?—A. Four hundred and eighty barrels.

Q. How many men did you take ?—A. Sixteen.

Q. When you were fishing for mackerel, did you ever take any off Prince Edward Island ?—A. No.

Q. Did you ever go into any of the harbors of Prince Edward Island ?—
A. Not while fishing. I have been there coasting. I have been at Charlottetown coasting.

Q. All your fishing in the gulf was away from Prince Edward Island ?—
A. Yes; I never caught fish within 25 or 40 miles of it.

Q. How late in the season have you been at the Magdalen Islands ?—
A. To the last of October.

Q. Do you regard the Magdalen Islands as a safe place to fish ?—A. Perfectly safe.

Q. Is the water there still or blowy ?—A. I don't know that we have not more blowy weather there than in other parts of the bay at some seasons. As a general thing it is more blowy.

Q. What makes it safer to fish there?—A. Because when it is coming on windy you can hoist your jib and run round to the lee.

Q. Was there any harbor to which you used to resort for shelter when fishing for mackerel; if so, what was it?—A. Port Hood late in the season; but, as a general thing, I have gone under the lee of Magaroo Island.

Q. By your statement, the great body of your mackerel have been caught much more than three miles from any shore?—A. Yes.

Q. Is that true even of your fishing at Magdalen Islands?—A. Yes; we anchored sometimes under Bryon Island.

Q. Since 1860 you have not been fishing?—A. No.

Q. In early life what trade did you learn?—A. Sail-making.

Q. Did you go to making sails after you quit fishing in 1860?—A. Yes.

Q. Perhaps you can tell the Commission what a suit of sails for a Gloucester mackerel schooner costs—what was the cost before the war?—A. About \$450.

Q. What does a suit cost now?—A. It costs perhaps more; about \$500.

Q. How often does a vessel require a new suit of sails, take from the time the vessel is built?—A. A vessel comes out this season and the fall following she must have another set of sails.

Q. When she gets the second suit of sails does she continue to use the first suit also?—A. Yes, in the summer season.

Q. Then she has a summer set and winter set?—A. Yes.

Q. Then every two years afterwards she will want a new set?—A. Yes.

Q. How long did you continue in the business of making sails after you left fishing?—A. Till 1868.

Q. What have you been doing since?—A. I was in the fish business up to within two years ago.

Q. Have you been interested in fishing vessels since 1868?—A. Yes.

Q. Up to what time?—A. Up to the spring of 1876.

Q. In how many vessels have you been interested?—A. Five.

Q. And how many owners have there been?—A. Three part of the time, and during the last three years two.

Q. You sold out the vessels?—A. Yes.

Q. When?—A. In the spring of 1876.

Q. Between 1868 and 1876, what were those vessels doing?—A. Fishing.

Q. Where?—A. At George's, Western Banks, and Grand Banks.

Q. For cod?—A. Yes, and for fresh halibut.

Q. Were any of those vessels in those years going for mackerel?—A. We made three trips in the bay or for mackerel. One vessel went one year and two vessels went another year.

Q. Did you make or lose money on those three trips?—A. I think we lost money.

Q. How much?—A. I could not tell you.

Q. Did those vessels lose?—A. Yes.

Q. Did the captain and crew make anything?—A. No.

Q. Then the voyage was so poor that not only the vessel lost, but the captain and crew made nothing?—A. They got very few mackerel.

Q. Did the captain and crew lose?—A. They got nothing or very little for their time.

Q. Do you regard the privilege of fishing within three miles of the shore in British waters for mackerel as of any value?—A. No.

Q. Where have your cod-fishing vessels obtained their bait; have they bought any?—A. Yes.

Q. At what places?—A. At Eastport, Campobello Island, Shelburne, Prospect, and all down the coast, and at Newfoundland.

Q. What do you say as to the profitableness of cod-fishing vessels going in from the fishing-grounds to buy bait?—A. I have no doubt at all it is an injury to us.

Q. Explain why.—A. The vessels lose one-half their time.

Q. Do you mean half their time?—A. More than half their time. It takes a vessel to go to the Grand Banks with a fishing-crew and get 150,000 fish, three or four months. More than one-half of that time they are going away seeking bait.

Q. Is that necessary, or do they do it because they prefer it to fishing?—A. There may be some inducement in the good spirit, good drink, in this country.

Q. Do you think they come in unnecessarily?—A. I do.

Q. And you prefer your vessels not to go in and buy bait?—A. Yes; and to take salt bait from home.

Q. Did your cod-fishing vessels fish with trawls or hand-lines?—A. With trawls.

Q. I think you had a couple of vessels seized?—A. Yes.

Q. What was the first one?—A. The schooner Helen Maria, in 1852.

Q. Where was she taken?—A. In Publico Harbor.

Q. What was the name of the captain?—A. Captain Finney, belonging to Argyle, Nova Scotia.

Q. What did you understand she was seized for?—A. She was taken by Captain Cowie. She was detained about eight weeks, when word was sent to us to come and take our vessel.

Q. Was there any trial?—A. No.

Q. Was that a cod-fishing vessel?—A. Yes.

Q. Had you any other vessel seized?—A. The White Fawn.

Q. Where was she seized?—A. At Campobello Island.

Q. What year was that?—A. The fall of 1870.

Q. She was restored after trial?—A. She had no trial.

Q. The White Fawn?—A. She had no trial.

Q. Do you remember who the judge was?—A. I forget the judge's name.

Q. Who was the counsel conducting the prosecution?—A. Mr. Tuck.

Q. You say there was no trial; did you not employ a lawyer?—A. No.

By Mr. Weatherbe :

Q. When did you last fish yourself?—A. In the fall of 1860.

Q. Where did you fish that year?—A. On Banks Bradley and Orphan and north of Magdalen Islands.

Q. How many barrels did you catch?—A. About 380.

Q. In 1859, how many barrels did you catch during the season?—A. About 450.

Q. Where did you catch them?—A. At Magdalen Islands.

Q. Altogether?—A. At Magdalen Islands and on the west shore, at Gaspé.

Q. On the first trip, where did you go when you first entered the bay?—A. I went to Banks Bradley and Orphan.

Q. How long did you fish there?—A. I do not remember the number of days.

Q. What proportion of time did you spend on Bank Bradley—one-

half?—A. We would fish there till our water ran out, perhaps ten days or two weeks, and then we would go to the shore.

Q. Where to?—A. To Magdalen Islands. I went twice, I think, to the shore.

Q. What proportion of your trip did you catch on Bank Bradley?—A. I could not tell you.

Q. Can you give any idea?—A. No.

Q. You fished at Gaspé in 1859?—A. Yes.

Q. Where did you fish?—A. I fished so that I could see Purse's Hill.

Q. How long did you fish there?—A. Till I got my trip.

Q. Have you ever been farther north than that?—A. Yes.

Q. Have you fished on the other side of the river Saint Lawrence?—

A. I did that same year.

Q. Where did you fish?—A. At Seven Islands.

Q. You fished there once?—A. Yes, along the coast.

Q. On the south side of the river at where?—A. Cape Saint Anne.

Q. How many different seasons did you fish there?—A. Only one.

Q. Where did you catch the fish at Cape Saint Anne; how far from the shore?—A. About one mile.

Q. How many did you catch there?—A. About 70 barrels up the gulf.

Q. How long were you in getting those 70 barrels?—A. We might have been there three weeks.

Q. What did you catch on the north side of the river Saint Lawrence?

—A. We caught 70 barrels up the gulf.

Q. On both sides?—A. Yes.

Q. You only were one season there?—A. Yes.

Q. In 1857 where did you catch your fish?—A. To the northward of the Magdalen Islands and on Banks Bradley and Orphan.

Q. Did you fish every year at Magdalen Islands and Banks Bradley and Orphan?—A. Yes.

Q. And fished at no other places?—A. No.

Q. At any time?—A. In the fall I did. I caught a few mackerel at Margaree Island one fall.

Q. Generally speaking, you caught your fish at three places, Magdalen Islands and Banks Bradley and Orphan?—A. Yes.

Q. There were some exceptions?—A. Yes.

Q. Tell me what the exceptions were?—A. I caught a few mackerel at Cape North Bay in 1857.

Q. North of Cape Breton Island?—A. Yes. Cape North Bay is marked on the chart as Aspee Bay.

Q. How often did you fish there?—A. We fished there and caught 40 barrels. We were there some three or four times.

Q. During how many years?—A. One year.

Q. With the exception of Banks Bradley and Orphan and Magdalen Islands, you fished, as you have shown us, on both sides of the St. Lawrence one year and one year north of Cape Breton Island?—A. Yes.

Q. Tell me any other place.—A. We took a few mackerel at Margaree one fall.

Q. Did you try any other year?—A. Yes; as we have gone around we have heaved to.

Q. Except heaving to, you never tried to fish there?—A. I have fished off there seven or eight or ten or twelve miles out. There is a bank out there where we frequently go.

Q. Is it Fisherman's Bank?—A. No. Margaree is marked as Sea Cove Island.

Q. Is the bank to which you refer on the west coast of Cape Breton ?

—A. Yes.

Q. You did not confine yourself to the island, but fished off the coast ?—A. We tried all along there.

Q. Along the west coast of Cape Breton ?—A. Yes.

Q. How often did you try ?—A. We tried when we went there ; I cannot tell how often. When night overtook us we would heave to.

Q. Did you ever fish within three miles of the shore there ?—A. I would not swear that I have not, and I would not swear that I have, because distance is so deceiving. I would presume I have not.

Q. I mean three miles of the land, either island or mainland ?—A. I should think I have, and I would not swear that I have, within three miles of the island.

Q. Are you aware that the best fishing is within three miles of the land ?—A. No ; I am not.

Q. At that place ?—A. No.

Q. Have you tried in there ?—A. Yes.

Q. Have you given it a fair and thorough trial ?—A. I never frequented there so much as some other vessels.

Q. Have you given it a fair and thorough trial ?—A. I cannot say that I have.

Q. You never fished at Prince Edward Island ?—A. Never.

Q. Previous to 1854, how many years did you fish ?—A. Three years.

Q. You were not permitted to fish within three miles of the shore then ?—A. In 1854 we were not.

Q. In 1855 were you ?—A. I was not there in 1855.

Q. How many years were you there when you were prohibited from fishing within three miles of land ?—A. While I was skipper of a vessel we could fish anywhere we saw fit.

Q. You don't know what lee-bowing boats means ? You perhaps never heard the word lee-bowing before ?—A. Never in my life. Boats generally fish at anchor. To lee-bow a boat it must be under way.

Q. You don't know anything of the extent of the boat-fishing in any of the places you have been ?—A. It was not very extensive in those days.

Q. Do you know the statistics in regard to the number of boats engaged in the mackerel fishery ?—A. No, I do not.

Q. Have you a son who has been fishing ?—A. Yes.

Q. How many years has he been fishing ?—A. I really could not tell you. He went fishing some few years previous to the war, then he went to the war, then he came home and went fishing a year, and he has been to China and California.

Q. What is his name ?—A. George F. Friend.

Q. He is not here ?—A. No.

Q. Had you any Nova Scotia fishermen with you when fishing ?—A. Yes.

Q. Will you give the names of any ?—A. I had a fellow of the name of Powers.

Q. Do you know where he belonged ?—A. Somewhere on this shore ; I cannot tell the place. I think it was Prospect.

Q. Do you know of any other ?—A. A fellow of the name of Mitchell.

Q. Where did he belong ?—A. Port Hood.

Q. What years was he with you ?—A. About three years. I think he was with us the second, third, and fourth year.

Q. What year was Powers fishing with you ?—A. I could not tell you.

Q. Can you tell me where you were fishing when Powers was with you?—A. No; I could not tell you the year.

Q. You cannot tell in what part of the bay you caught your fish when Powers was with you?—A. No.

Q. Cannot you give the Commission any sort of idea?—A. No.

Q. Not where you caught most of them?—A. No.

Q. Did you catch the largest part at Margaree when Powers was with you?—A. I could not answer the question.

Q. I ask you to remember if possible?—A. It is impossible.

Q. Is it impossible for you to say whether, when Powers of Prospect was fishing in your vessel, you did not catch most of the fish at Margaree?—A. I could not say.

Q. Within three miles of the shore?—A. I could not say.

Q. Did you carry cod-fishing gear with you when you went mackerel fishing?—A. No.

Q. Not at all? you never caught any codfish on those trips?—A. Just to eat; nothing else.

Q. Have you ever been in Bay Chaleurs?—A. No.

By Mr. Foster:

Q. What do you understand by the phrase "lee-bowing"?—A. When one vessel gets up a school of mackerel and a neighbor comes along and sees the vessel catching them, and being too lazy and not wanting to waste his bait, he goes round very close to the vessel and heaves out a little bait, and drifts off and gets the mackerel to follow his vessel.

By Mr. Weatherbe:

Q. I understood that you did not know what lee-bowing boats was, and that you had not heard the phrase?—A. I said I had not.

Q. You never heard of lee-bowing boats?—A. If you will give me an idea of what you call a boat, I will be better able to answer you.

Q. Have you ever heard of lee-bowing boats?—A. No.

Q. You understand the question?—A. I understand it perfectly. I never heard of it.

Q. You know what a boat means?—A. They sometimes call our fishing-smacks of 70 or 80 tons boats. If you mean fishing vessels of 75 tons, I tell you, yes.

Q. Of boats smaller than that, you never heard it?—A. What we would term boats, no.

By Mr. Foster:

Q. Explain what you mean by boats.—A. Small boats, such as they have on Nova Scotia shore and some parts of Maine, of five, six, or seven tons.

By Mr. Weatherbe:

Q. These are what you call boats?—A. Yes.

Q. You never heard of vessels lee bowing them?—A. No.

By Mr. Foster:

Q. Explain why.—A. Because they fish to an anchor.

By Sir Alexander Galt:

Q. Could you not do the same with a boat fishing to an anchor as with a boat drifting? If a boat is at anchor catching mackerel, cannot a vessel run in, throw out bait and drift off and take the fish with it?—A. No; vessels of 70, 80, or 100 tons cannot run in alongside of boats fishing to an anchor. There are the wind and tide to contend with. The

wind might be blowing from the east and the tide setting in a westerly direction.

By Mr. Weatherbe:

Q. Then, if I understand you, you never heard of such a thing as lee-bowing boats—these small boats?—A. Never in my life.

Q. You have described what lee-bowing is; what is it?—A. If you were in a vessel laying to, and I came along, and when I got within half or three-quarters of a mile, according to the headway, hauled the jib and came along by you, threw out a little bait as I came alongside your vessel, and then went ahead of your vessel and took the fish away.

Q. It is quite possible, quite probable, that it could be done?—A. Some might do it, but I would not.

Q. You would not think it right to do it?—A. I would not dare to do it, even if I thought it right.

Q. Is it not easily done?—A. No; I never tried it.

Q. You would not, as a sailor, undertake to say that it could not be done?—A. I don't think it is impossible.

Q. Is it not quite easily done?—A. I don't know that.

Q. I want your opinion?—A. I never knew of it being done.

Q. You cannot undertake to say it is not easily done?—A. I tell you I don't know. I would not dare to do it.

Q. I want you to say whether it can be done or not?—A. I could not answer the question. I would not dare to do it.

Q. Can you not give your opinion as a sailor?—A. No; I never undertook it.

Q. Could you not undertake to do it?—A. I would do some things now which I would not have done years ago.

Q. Between 1868 and 1876 you had five vessels fishing?—A. Yes.

Q. And you made three mackerel trips?—A. Yes.

Q. And you lost money by them?—A. Yes.

Q. Where did the vessels fish; outside of the three-mile limits?—A. I could not tell you.

Q. You have no idea where they fished?—A. No.

Q. You had three vessels fishing in the bay; you sent them there?—A. Yes.

Q. They came home, and you lost money by the trips?—A. Yes.

Q. And you undertake to say you do not know and never made any inquiry, whether the vessels fished inshore or outside?—A. Yes.

Q. You never made any inquiry about it?—A. No.

Q. What are the names of the vessels?—A. White Fawn, Annie Linwood, Sarah C. Pile.

Q. Had any of them fishing licenses from the Canadian Government?—A. I could not tell you. I did not keep the books; my partner kept them.

Q. How did you become acquainted with the license system?—A. I have heard it talked over on the streets.

Q. What did you understand it to be?—A. That we paid for license.

Q. During what years?—A. I could not tell you; I have no idea what years.

Q. Was it your idea that you could get a license for the whole period you fished?—A. I never knew of anything about it.

Q. Did you know that you were permitted to go and fish within three miles without license at any time?—A. Under the Reciprocity Treaty we could.

Q. After the Reciprocity Treaty you could not?—A. No.

Q. After that it was necessary to have a license?—A. Yes.

Q. How many mackerel trips were made by your vessels after the Reciprocity Treaty was abrogated?—A. I was interested in three trips, but I could not tell you the years.

Q. Can you not give me the years when you had vessels in the bay fishing for mackerel? Were they 1866, 1867, 1868, or 1869?—A. I think they must have been 1872 and 1873; I will not swear to it.

Q. You don't know whether you had licenses or not?—A. No.

Q. Are you aware there were no licenses issued then?—A. I am not.

Q. Are you aware that it was impossible to procure permission to fish within three miles of the shore in 1872?—A. I don't know anything about it.

Q. You have no idea?—A. No.

Q. And you have no idea where your fish were caught that year?—A. No.

Q. They may all have been caught in harbors?—A. They may all have been caught up rivers for all I know.

Q. You never made inquiry?—A. No.

Q. Did you give any directions to your captains as to where they should fish?—A. No; it would be no use. When they leave the wharf we lose all jurisdiction over them, and they go where they have a mind.

Q. You give no directions?—A. It would be useless to do so.

Q. You made no inquiries as to where the fish were caught?—A. No.

Q. Did you state in your direct examination that the right to fish within three miles of the land was of no use?—A. Yes.

Q. How do you arrive at that opinion? You never fished there yourself to any extent?—A. In the first place, the vessels spend a great deal of time in the harbors. If they kept outside we would not have so many drafts from them; they would be attending to their business and would get their trips. This refers to both mackerel, cod, and halibut fishing. In the next place, we would get a little better price for our fish, and a good deal better price for our mackerel.

Q. Those are the only reasons you have to give?—A. The vessels would get more mackerel off shore.

Q. How did you find out that the mackerel were better off shore than inshore; and how did you find out that there were more mackerel off shore, if you never fished inshore?—A. I don't think I made the assertion that they were better mackerel off shore than inshore.

Q. You thought you would get more mackerel and get a better price for them?—A. If we had a duty on mackerel we would get a better price, and would get more mackerel if we fished off shore.

Q. I am asking you what reasons you have for considering the privilege of fishing inshore to be of no use?—A. I said I thought they would catch more mackerel if they fished off shore and kept the vessels out of harbors, and that we would not have so many drafts, and, in answer to another question, I said we would get a better price for our mackerel.

Q. You did not give that as a reason for thinking the privilege of fishing inshore of no use?—A. I certainly think if we had not the privilege of fishing inshore you would have to pay a duty on your mackerel. You have no other market to which to send them.

Q. You are now advancing theories. I want facts. I was not speaking of the duty at all; where did you get that idea? You did not say anything about duty in your examination?—A. No question was asked me about duty.

Q. Is the privilege of using the inshore fishery of any use to you as fishermen?—A. No. Personally I say, no.

Q. Do you know that practically yourself?—A. That is my opinion.

Q. You never fished inshore?—A. No.

Q. Therefore you are not able to say so from your own knowledge?—A. I fished off shore for the very reason that I thought I would do better there. I had a perfect right to come inshore.

Q. You lost money, you say?—A. Yes.

Q. Did you ever try fishing inshore?—A. No.

Q. But you say the privilege of inshore is of no value?—A. That is my opinion.

Q. For what reason?—A. I gave you my reasons. It would keep the vessels out of the harbors and they would get more mackerel.

Q. What else?—A. Then we would not have so many drafts. They lay in the harbors too long, and go into harbors when it comes night.

Q. Is it not the practice for the fishermen to run into the shore and drift off, and then run in again?—A. It is not always you can drift offshore.

Q. Is the privilege of going inshore an advantage to you?—A. If the mackerel were inshore, it would certainly be an advantage; if they were not inshore, it would not be an advantage.

Q. You never tried whether the inshore was not better than the out-shore fishery; why did you not try it?—A. Because I thought I could do better outside.

Q. Year after year you lost money. As a business man, why did you not try fishing inshore like other fishermen who have made money?—A. I don't know where they are; they are very much scattered.

Q. Why did you not try?—A. Because I thought I could do better off shore.

Q. Do you know of any vessel which fished within three miles of the shore?—A. Not personally.

Q. Why do you say not personally?—A. Because I do not know any one. I never saw them in there fishing.

Q. Did you hear of any vessel which fished inshore?—A. I could not tell what I have heard.

Q. Have you heard of vessels fishing inshore?—A. I could not answer that.

Q. Did you ever make any inquiries?—A. No; I was not interested.

Q. You fished off shore, lost money, and never tried to fish inshore, and never made any inquiries as to whether there was good fishing there or not?—A. Yes.

Q. Have you heard of 450 licenses having been taken out?—A. No; nor of 150.

Q. Don't you think it would be a curious thing for American owners to take out fishing licenses if there was no fishing inshore?—A. No, I don't think it would be a curious thing.

Q. How does it strike you?—A. If I kept six or eight skippers to go in vessels, four or five would be British subjects, and when they got down to the bay I could not trust them, and I would take out licenses to guard myself against them. That is a plain, simple fact.

Q. Let me remind you of what you said a few moments ago, that when you sent vessels to the bay, you never made many inquiries from them?—A. No.

Q. You were not aware whether licenses were issued to them?—A. No.

Q. You never made any inquiries?—A. No. I had a partner, who kept the books and attended to that part of the business.

Q. You left that matter to him?—A. Yes. I don't know whether he took out licenses or not.

Q. Do you know of any vessel which took out licenses?—A. I know of some, but I do not know their names.

Q. For what reasons should they have taken out licenses?—A. I gave you my reason why I would, if I sent vessels.

Q. That is your own personal reason?—A. Yes.

Q. You cannot give the reasons of any one else?—A. No.

Q. What is your reason?—A. If I sent a vessel down to the bay, and did not take out a license, it would not be allowed to fish within three miles of the shore; but by paying a certain amount, it would have the right to fish within three miles, and the license would save the vessel if it went in, and the cost of the license would not amount to a great deal.

Q. Why could you not direct him not to go in?—A. We lose all control over our vessels when they go away.

Q. If you were going there yourself, you would not take out a license?—A. I don't know what I might do now; I know what I have done.

By Mr. Whiteway:

Q. You have not been fishing yourself since 1860?—A. No.

Q. You have never fished on the Grand Bank or Georges Banks for codfish since 1860?—A. I have fished on Georges Banks.

Q. But never on the Grand Banks?—A. No.

Q. You never went to the Newfoundland coast for bait?—A. No; I have, however, gone in the winter from Fortune Bay to the New York market with fish.

Q. Was that many years ago?—A. I think it was in 1858 or 1859, but I will not be positive.

Q. You speak of Gloucester cod-fishing vessels taking bait from Eastport, Shelburne, and Prospect?—A. Yes.

Q. What description of bait?—A. Herring.

Q. Salted?—A. No; fresh.

Q. Where were these obtained?—A. From now till next May, we can get them at Eastport and Grand Manan and Campobello, and as the season advances, say from May to June, we are obliged to come on the coast here, down at Shelburne; and during the latter part of the season we are obliged to go for bait to Canso.

Q. Do the cod-fishing vessels from Gloucester take all the bait they require for the season, in the shape of frozen herring?—A. O, no.

Q. What bait do they take besides frozen herring?—A. The bankers do not take any frozen herring.

Q. Do they take salt herring?—A. No; fresh.

Q. Preserved in ice?—A. Yes.

Q. On the average, how much does each vessel take?—A. I could not tell you. I have no idea.

Q. How much do they take from Eastport or Shelburne?—A. I could not tell you.

Q. Do they take sufficient to last them for the whole of the banking voyage?—A. Not all; but some do. Nova Scotian people from some parts of Argyle and Pubnico take very little fresh bait with them. They lay there and fill up their trips without it. They do not bait up. They are old bankers, and they have not got into the way of it; while our own men and the Cape Breton skippers bait up two or three, and I do not know but four times during the season.

Q. On the average, what quantity of bait preserved in ice do the Gloucester vessels take in the shape of herring?—A. I could not tell you.

Q. Do they take enough for the whole banking voyage?—A. No.

Q. Where do they get the bait necessary for the prosecution of their voyage?—A. In Newfoundland.

Q. How long has the practice of their going to Newfoundland for bait existed?—A. Very few years; I suppose six or eight.

Q. Can you tell how many vessels from Gloucester are now fitted out for the Bank fishery?—A. No.

Q. How many are fitted from there for the mackerel fishery?—A. I should suppose somewhere about 200 sail.

Q. Are the number of vessels now fitted out from Gloucester for the cod fishery less or more than it was five or six years ago?—A. It is more.

Q. Has their number increased gradually during the last four, five, or six years?—A. No; I do not know as it has during the last four or five years. I think not.

Q. Are you able to state positively whether this is the case or not?—A. I should say not, if I was on my oath.

Q. Have you no statistical information on the subject?—A. I have no more than what I see. I know where each vessel is going to; and I should say that there is a decrease in the number, and that vessels which had been so engaged have gone into the mackerel-fishing business.

Q. Have you any statistical information enabling you to speak positively on the subject?—A. No; I cannot tell their exact number.

Q. You have had five vessels between 1868 and 1876 going to the Bank fishing, with the exception of the last two of these years, when you had three vessels there?—A. O, no; I have had the five vessels during the whole period.

Q. What were they doing; cod-fishing?—A. One went for fresh hali-but; one was on Georges' Bank; two went to the western and Grand Banks, and one went mackerel fishing.

Q. How many of your own vessels have gone to Newfoundland for fresh bait?—A. I could not tell, but I knew one did.

Q. When did she do so?—A. In 1870. Her name is the White Fawn.

Q. And that is the only one which, in your recollection, did so?—A. I do not know, but I presume that the others did so, though I am not sure. I was not in the way of knowing that; my partner would receive the drafts and pay them while I would be on the wharf working, sorting and packing mackerel, &c. If I was in when a draft was laying on the desk, I would see it.

Q. Then only one of your vessels went to Newfoundland for fresh bait, that you can swear to; this was in 1870; and you do not know of any other of your vessels which went in there for it?—A. I have no doubt that the others went in there.

Q. But you cannot speak as to this from your own knowledge?—A. No.

Q. What quantity of herring do you estimate Gloucester vessels bring every spring from Grand Manan for bait?—A. I could not tell you, I am sure.

Q. Does the principal part of your Gloucester cod-fishing vessels bring their herring bait in the spring from Grand Manan?—A. For about two months—yes.

Q. And salt bait is much better than fresh bait for cod-fishing?—A. Well, I will swear that though I think you can catch a few more fish

with fresh bait while it lasts, I consider that if you take salt bait and go down to fish on the Bank, and take your time, you will do decidedly better with it.

Q. Does fresh bait take the fish quicker than salt bait?—A. You will catch a few more fish while it lasts, but it only keeps a short time.

Q. You think that it is not advantageous to go to Newfoundland or on the coasts of Nova Scotia for fresh bait?—A. Yes.

Q. And your principal reason for arriving at that conclusion is, that it gives an inducement to your people to take spirits?—A. I said that it was such an inducement; but another fact is, that the vessels which carry salt bait get more fish and the best trips.

Q. Then salt must be better than fresh bait?—A. No; it is the time that is to be considered. A Nova Scotia schooner, owned partly in Gloucester and partly by a man named Goodwin, does better every year with salt bait than other vessels which have fresh bait.

Q. Why do you cast a reflection on your own people, and say that they are reduced by spirits to be idle?—A. I did not do so. More than one-half of the time is lost in going in for bait.

Q. Are you aware of any drafts having been drawn on you for fresh bait?—A. This may have been the case and it may not.

Q. You know of no drafts having been made on you for fresh bait?—A. I do not swear that there have been, but I have no doubt that our vessels have gone in for bait.

Q. You have no idea of vessels going in from the Grand Bank for bait, obtaining it, and returning to the bank in fifteen days; on what do you base your opinion?—A. I say so because bait is not always plentiful.

Q. But you have never been in for bait?—A. No; but I have heard people say so. I have heard a good many people say so. I have heard a good many people state the time they have lost by going in for bait.

Q. Suppose you were told that a vessel could go into Newfoundland for bait and return to the Bank in 72 hours, would you not then consider that such a privilege was a very useful advantage?—A. I discredit the whole story.

Q. But suppose it were the case?—A. If a man was on oath and swore to it, I would not believe him.

Q. But suppose it was the fact?—A. I should doubt the truth of the statement.

Q. If it was so, would you consider it an advantage to be able to go in for fresh bait?—A. No; I told you, and that is my candid opinion, given without any prejudice whatever, that our vessels would be decidedly better off if they used salt bait.

Q. Even if they could get fresh bait by running into Newfoundland and returning to the fishing ground in 3 days?—A. It is impossible to do that.

Q. But merely suppose it was true?—A. When you suppose an impossibility, I cannot answer you. I cannot answer such a question as that.

Q. But suppose that you could do so in three or four days, what would you think?—A. I do not know how to answer such a question.

Q. Do you refuse to answer?—A. I cannot answer such a question; it looks to me as if it was absurd to think of a man doing so in that time. I cannot answer it so as to be satisfactory to myself.

Q. You cannot give an opinion on this subject under those circumstances?—A. No, I cannot.

Q. When speaking with reference to the number of mackerel taken

men now in the bay from Gloucester, you mean those in the bay, those off your own shores, and all?—A. Yes. I stated that we had 200 mackerel-catchers employed. There are about 40 in the bay out of the 200.

No. 19.

CHARLES HENRY ORNE, master-mariner and fisherman, of Gloucester, called on behalf of the American Government, sworn and examined.

By Mr. Trescot :

Question. How old are you?—Answer. Thirty-five.

Q. How long have you been fishing?—A. Eight seasons.

Q. As a sharesman or master?—A. As master.

Q. Were you fishing previously?—A. Yes; some.

Q. When did you begin fishing?—A. When a boy 9 years of age I went on my first trip.

Q. And you fished ever since until you became master?—A. Yes; more or less.

Q. When did you become master?—A. In 1864.

Q. You have been engaged mainly in the mackerel fishery?—A. Yes.

Q. What did you do in 1864?—A. I was in the schooner Joseph Storey, of 55 tons register, and I went into the Gulf of St. Lawrence.

Q. How many trips did you make that year?—A. Three.

Q. Where did you make the first one?—A. At the Magdalen Islands.

Q. What was your catch?—A. Two hundred and seventy or 280 barrels.

Q. Were they taken entirely around the Magdalen Islands?—A. Yes. I presume some were caught that trip within the 3-mile limit.

Q. Where was your second trip taken?—A. At the Magdalen Islands.

Q. What was your catch then?—A. Two hundred and fifty or 260 barrels, or thereabouts.

Q. Did you fish inshore a little sometimes off the Magdalen Islands?—A. Yes.

Q. What proportion did you so catch?—A. I would not like to give an estimate; I do not think I could come anywhere near the real number.

Q. Where was your third trip taken?—A. Between East Point, Prince Edward Island, and Cape George, principally.

Q. You did not fish off the Cape Breton shore that year?—A. I caught all my third trip this first year, 1864, there, off Margaree Island.

Q. How many did you catch that trip?—A. Two hundred and forty barrels.

Q. What did you catch within the limits on this trip?—A. The land is very high there and I had no means to determine the distance, but I should judge we caught three-quarters of that trip within the limits.

Q. What did you do in 1865?—A. I was in the same vessel in the gulf.

Q. Where did you go?—A. To the Magdalen Islands.

Q. What did you catch?—A. About a usual trip—260, 270, or 280 barrels, or thereabouts. That was about a full trip for the vessel.

Q. What did you catch within the limits?—A. I have no doubt that we took 30 barrels.

Q. Where did you make your first trip that year?—A. I think off North Cape and on Bank Bradley.

Q. What did you catch?—About a full trip. Probably 240 or 250 barrels.

Q. Where did you go for your third trip?—A. I think we caught it between the Magdalen Islands and Cape Breton.

Q. What did you catch?—A. A full trip—270 or 280 barrels.

Q. Did you catch them off shore?—A. Yes, off Entry Island, one of the Magdalen Islands.

Q. Where were you in 1866?—A. In the Gulf of Saint Lawrence, in the same vessel.

Q. How many trips did you make that year?—A. Three.

Q. Where did you make your first trip?—A. At the Magdalen Islands. We obtained about a full trip.

Q. About how many did you get?—A. 280 barrels.

Q. How about the second trip?—A. I think it was made off North Cape, Prince Edward Island.

Q. What was your catch?—A. 250 barrels.

Q. Did you then fish within 3 miles of the Prince Edward Island shore; and, if so, what did you catch?—A. I often tried in there on that trip from North Cape down, but I do not think that I caught much inshore. I am pretty sure that I did not.

Q. Do you recollect the number you so caught?—A. I think it was 15 or 25 barrels.

Q. Where were you in 1867?—A. In the gulf, in the Julia Grace.

Q. What did you take on your third trip in 1866?—A. It was what I call a mixed trip, being caught in different places. I fished off Prince Edward Island, and went from thence to Cape George and Fisherman's Bank and I think farther down, though I am not positive on this point. I caught the trip principally at the places I have named.

Q. How many did you get?—A. About 230 or 250 barrels, I think.

Q. And in 1867 you were in the Julia Grace?—A. Yes.

Q. What was her size?—A. She was of 62 or 64 register—62, I think.

Q. How many trips did you make that year?—A. Two.

Q. Where did you take the first?—A. About the northern part of Bank Bradley and over towards Point Miscou. It was a broken trip. We got 130 or 140 barrels.

Q. What did you obtain on the second trip?—A. 230 or 240 barrels.

Q. Where did you catch them?—A. We took a portion between the Magdalen Islands and Cape Breton and some over about Cheticamp.

Q. Did you fish much within the 3-mile limit?—A. I think that we caught some there near Cheticamp. We may have been within the 3-mile limit there.

Q. What proportion of the 240 was taken within the limits?—A. A small proportion. I hardly know what to set it at.

Q. Where were you in 1868?—A. In the same vessel, in the gulf.

Q. How many trips did you make that year?—A. Two.

Q. What did you take on the first trip?—A. It was a broken trip. We got 150 barrels or thereabouts.

Q. Where were they caught?—A. I think to the north or about North Cape.

Q. And the second trip?—A. It was a mixed trip—caught in different places. Some were caught at the Magdalen Islands and some, I think, off North Cape.

Q. Do you recollect the quantity you took?—A. It was something over 200 barrels.

Q. Were you fishing in 1869?—A. Not in the bay. I was banking.

Q. When did you again fish in the gulf?—A. In 1873.

Q. What vessel were you in that year?—A. The J. F. Hunt, 100 tons.

Q. How many trips did you make?—A. We made only one that year.

Q. What was your catch and where was it taken?—A. It was 343 barrels, caught wholly at the Magdalen Islands.

Q. What did you do in 1874?—A. I was in the John Storey, jr. We made one trip that year. It was taken partly to the north and partly down Prince Edward Island.

Q. What sort of a trip did you make?—A. It was a small one—150 or 160 barrels, I think.

Q. What did you do in 1875?—A. I did not do anything that year. In 1876 I was in the gulf, in the Jamestown, 69 tons. We made a broken trip, catching 126 barrels, of which 90-odd were taken at the Magdalen Islands and the remainder about East Point—between that and Fisherman's Bank.

Q. This was all your fishing in the Gulf of St. Lawrence?—A. Yes.

Q. Have you had any experience in mackerel-fishing on the coast of the United States?—A. I fished there one year only; this was in 1872.

Q. What sort of a trip did you make?—A. I made different trips, and packed during the season 530 barrels. I made short trips.

Q. A great deal of fishing is done from Gloucester, on the United States coast?—A. Yes.

Q. You have had some opportunity of forming an opinion, from your own experience in the gulf and on the American coast and from that of your neighbors, and how do you think that the gulf and United States coast fisheries compare?—A. I do not suppose that they differ a great deal; but of late the comparison is in our favor as to the shore fishery, though years ago the gulf mackerel ruled higher than our shore mackerel. Still I should not suppose that there is any great difference between them.

Q. Do you think that the American coast fishery affords ample room for the successful prosecution of the fishing business for those who go there?—A. Yes.

Q. It is, besides, less costly fishing than fishing in the gulf?—A. I presume that it is. There is not so much time wasted on our coast in making trips.

Q. With your experience of the Gulf of St. Lawrence fishery, do you consider that the privilege of fishing within the 3-mile limit there is of any great value to us? I do not now refer to the Magdalen Islands, but to the rest of the coast.—A. I do not; judging from my own experience and the amount of fish that I caught inshore, I do not think that exclusion from fishing within the 3-mile limit would keep me out of the gulf any year when I felt disposed to go there.

Q. As a matter of profit as concerns your industry, you would rather have the restoration of the \$2 duty on the fish that comes from abroad to compete with yours than the privilege of coming inshore in British waters to fish?—A. Yes.

Q. Has the number of mackerel-fishing vessels in the Gloucester fleet increased or decreased since you have been engaged in the fishing business?—A. That is a difficult question to answer. I do not know that it has varied any.

Q. I mean vessels employed entirely in the gulf mackerel fishery?—A. O, that has diminished vastly.

Q. How many mackerel-fishing vessels from Gloucester do you suppose are in the gulf this year?—A. I should say that there are 59.

Q. And within your experience what has been the number which has come up to the gulf?—A. I have been there when from our port there

were 200 vessels and upwards. I presume that this was in 1864 or 1865 or 1866.

Q. The decrease has been steady?—A. The number has been diminishing. There were 30-odd sail in the gulf last year from our port. I do not know the exact number now in the bay, but it is a very small fleet.

Q. Were you Bank fishing from 1868 to 1873?—A. Yes.

Q. How did you supply yourself with bait when you were cod fishing on the Banks?—A. Well, one year—the first year that I went bank fishing—I took clams from Gloucester. This was in the spring of 1865. I took my own bait from Gloucester, caught my trip of fish, and went home. I never saw land, in my remembrance, from the time I left until I returned.

Q. How long were you out on that trip?—A. I left home on the 7th of March and made two trips between that date and the 27th of June. I do not remember the length of time I was on my first trip.

Q. And the bait which you took out lasted you on each occasion?—A. The first did, but during my second trip I caught my own bait.

Q. What did you catch?—A. Herring.

Q. Daring your fishing there, were you in the habit of going at all to Newfoundland to buy bait?—A. I have been there of late years.

Q. Have you made a practice of it late years?—A. I went in for bait the second year I went there.

Q. What is your opinion as to the respective value of the two systems? Would the fisherman do better if they fished with the salt bait which they may carry to the Banks and trusted to supplying themselves with bait there or in St. Peter's, or by running into Newfoundland for bait?—A. I think that the former is the best, after they get into the habit of using salt bait. I do not know, however, that they would find it so the first year; but I think that this would be the case after they got into the habit of using salt bait.

Q. Do you consider the vicinity of the Magdalen Islands a dangerous fishing place?—A. No; I do not.

Q. As far as the fishing-ground and the situation of vessels during stress of weather are concerned, would you not consider yourself as safe or safer there than anywhere else in the gulf?—A. I would be fully as safe there.

Q. Have you had any large experience in fishing in the Bight of Prince Edward Island?—A. Well, I have had very little there.

Q. There is nothing to make the harbors of Prince Edward Island ports of refuge in bad weather preferable to the lee shore of the Magdalen Islands?—A. No; for my part I would prefer the Magdalen Islands for such a purpose. One reason for this is that the water about the Prince Edward Island harbors is shoal, and in bad weather it is rough there, though when the water is smooth they are very easy of access. When the water is rough it is dangerous to go into the Prince Edward Island harbors.

By Mr. Davies:

Q. You did not fish very much about Prince Edward Island?—A. Not a great deal.

Q. How often were you fishing up and down the coast of the island?—A. I was there in 1868, in the Julia Grace.

Q. Is that the only time you fished around the island?—A. I think I was there other years.

Q. Were you there every year more or less?—A. I presume that I have been there every year.

Q. Fishing?—A. Yes; but I cannot commit my memory to every time and place.

Q. Did you go there every year when you came to the bay to fish?—A. I think that I did.

Q. You generally, as others do, have run down the north side of the island?—A. Well, if I go there, I do. I have run 7 times out of 10 from Causo to Magdalen Islands.

Q. When you and others have come to the bay, have you and they not made a practice of fishing off the north coast of Prince Edward Island?—A. I have tried there, I think, every year that I was in the bay, but I cannot tell what my neighbors have done.

Q. Have you not seen other vessels fishing there?—A. Yes. I presume that they were fishing or trying to fish.

Q. Have you any doubt of it at all?—A. No; not in the least.

Q. Off what parts of the island did you use to fish; for instance, did you fish from East Point down to Two Chapels?—A. Yes; I tried there last year; but I could not command my memory to any other year in particular in this respect, but still I have no doubt that I have done so.

Q. It is a well-known fishing-ground to many Gloucester fishermen, is it not?—A. I presume that it is.

Q. Is that not the fact?—A. I have stated that I have fished there, and I have seen my neighbors there.

Q. Have you fished or seen vessels fishing down off Rustico and Malpeque Harbors?—A. Malpeque—yes. I have fished there and tried there; and I was in Malpeque Harbor last year and one year before.

Q. Going up farther west, off Cascumpeque, Kildare, and North Cape, have you fished there?—A. I do not remember fishing on this side of North Cape, farther than Tignish Chapel.

Q. That is also a fishing ground pretty well known among Gloucester fishermen, and one of the points which you make?—A. I presume so.

Q. Did you fish on the other side of North Cape, off Miminegash?—A. I do not know of such a place.

Q. It lies between North and West Capes?—A. I do not remember fishing there.

Q. When would you go to Prince Edward Island, or would you select any special part of the season to do so?—A. I was there last year during this month.

Q. How was it during previous years, 1864, '65, '67, or '68?—A. I cannot commit my memory to the time of the year when I was there; one trip excepted.

Q. Would you go there when you went up to the bay in the spring, or did you do so later, in September or October?—A. Well, I never have been there earlier than in July as I know of.

Q. Do you generally strike the Magdalen Islands during the first trip for mackerel?—A. Yes. I have gone there 7 times out of 10.

Q. And when would you leave these islands?—A. I fished there until I got my trip, if I found the mackerel there.

Q. I do not notice your having got any one trip at the Magdalen Islands alone.—A. O, I think I have stated that I did get a full trip there.

Q. Have you ever fished on the west shore of New Brunswick, from Miscou down to Richibucto?—A. No; not that I remember of.

Q. You may have done so and have forgotten it?—A. I think not. I think if I had fished there I would remember it.

Q. Did you ever fish in the Bay of Chaleurs?—A. I have tried there.

Q. Have you seen other vessels there?—A. I presume that I have.

Q. You know whether you did or not?—A. I went in to procure water.

Q. Have you seen other vessels there?—A. Yes.

Q. Fishing?—A. I would not swear to that.

Q. What is your belief?—A. I believe that part, if not all of them, which I saw were coasting-vessels. I have now reference to one time in particular.

Q. Do I understand you to say you have no recollection of ever having seen American vessels fishing in the Bay of Chaleurs?—A. To my certain knowledge, no.

Q. What do you mean by "certain knowledge"?—A. To my knowledge. The vessels I saw there I suppose were, as to the most of them, coasters. I saw very few, and them only once that I remember of.

Q. Did you try to fish there then?—A. Yes.

Q. On which shore did you do so?—A. I filled with water on the Canadian side and I presume that I tried there.

Q. At what harbor?—A. Cascapedia.

Q. When was this?—A. I think that it was in 1863.

Q. You were then in the Julia Grace?—A. Yes.

Q. You were never in the Bay of Chaleurs previously?—A. Not to my recollection.

Q. Have you ever fished much up around the Gaspé shore?—A. No.

Q. Perhaps you were never to the north of that or at Seven Islands?

—A. No.

Q. You have never been there at all?—A. No.

Q. Do you know whether the American fishing fleet go there or not?

—A. I do not know.

Q. You have never heard of it?—A. I heard Mr. Friend state outside to-day that he was there.

Q. Before your conversation with Mr. Friend about it to-day have you heard many Americans say that they had fished about Seven Islands, and speak of it as one of the points where they used to fish?

—A. No.

Q. Nor Gaspé?—A. I could not say as to that.

Q. Have you heard them speak of fishing around the Gaspé shore?

—A. That is near Bonaventure, is it not?

Q. Yes.—A. Well, I presume that I have.

Q. Do you not know whether you have or not?—A. I should not want to swear to it.

Q. Have you a doubt in your own mind about this part being spoken of as one of the points where they caught mackerel?—A. We are talking about fishing all the time when on our trips, and I would not swear that I have heard of it during my voyages.

Q. Or that you have not?—A. No; we are talking about the fishing grounds all the time while fishing, and a man may have mentioned that last year, and still I would not remember it.

Q. Have you ever heard them talk about Prince Edward Island as one of their fishing grounds?—A. Yes.

Q. Often?—A. Yes.

Q. Many of them?—A. Plenty of them.

Q. A great many of them?—A. Yes.

Q. You know a great many people, or some at any rate, from Prince Edward Island who have sailed from Gloucester in fishing vessels?—A. I know some—yes.

Q. And you have heard the island constantly and often talked of?

—A. Yes.

Q. Have you heard the Cape Breton shore, between Cheticamp and Margaree and around Margaree Island, spoken of as one of the fishing grounds of American fishermen?—A. Yes.

Q. Often?—A. Yes.

Q. And as one of the best fishing grounds?—A. I never heard it spoken of in that way.

Q. Have you ever heard it mentioned as a place where the best fish are taken in the fall?—A. No.

Q. In 1864 you were in the Joseph Storey, and you stated at first that you got your first trip at the Magdalen Islands, and afterward you corrected yourself and said that was wrong; what really is the fact?—A. The fact is that I caught the whole trip at the Magdalen Islands, and I do not think that I altered that statement.

Q. I understood you to alter it.—A. If I did, I was wrong. I caught them all at the Magdalen Islands.

Q. How far out around the Magdalen Islands did you fish?—A. When I speak of fishing round them, I mean inshore, and off shore I could not determine the distance round, but the distances off shore would vary from 2 to 30 miles.

Q. Is the bulk of the fish caught near the shores of these islands?—A. The bulk of mine was not so taken.

Q. Is the bulk of the fish taken near their shores by other people?—A. I do not know.

Q. You have no knowledge of what others have caught there?—A. No more than seeing their vessels fishing where I was.

Q. You really cannot tell whether the bulk of the fish is caught inshore there or not?—A. Other vessels might have done so, but I did not.

Q. What proportion of yours was caught there within the three-mile limit?—A. A small proportion; possibly from 15 to 25 barrels in the trip I made there.

Q. That number out of 270 or 280?—A. Yes.

Q. And the rest were caught from 15 to 20 miles from the islands?—A. From 2 to 30 miles off.

Q. During that trip?—A. And in fact during every trip I was there.

Q. Did you fish on Bank Bradley during your first trip?—A. No. I fished then entirely at the Magdalen Islands.

Q. And where did you fish on your second trip?—A. At the Magdalen islands.

Q. That year?—A. Yes.

Q. You caught it altogether there?—A. Yes.

Q. And on your third trip you fished about East Point and Margaree, and caught three-quarters of your fish within the three-mile limit. How much did you catch on your third trip that year?—A. 240 barrels, and I caught them at Margaree Island.

Q. How far from the island?—A. It is difficult to determine that. I presume that I caught three-quarters of that trip within the limits.

Q. Would you like to swear that you caught one-quarter of it outside the three-mile limit?—A. I should.

Q. Why?—A. Because I fished well off shore.

Q. And you are perfectly clear in your recollection as to three-quarters of the trip being taken inside and one-quarter of it outside of the limits?—A. Yes; to the best of my judgment.

Q. Is that the only time when you fished around Margaree?—A. Yes; that year.

Q. Did you fish there at any other time?—A. I believe not.

Q. Then, so far as you personally are concerned, the fish caught about Margaree are taken in the proportion of three quarters inside and one quarter outside of the 3-mile limit; and that, and that alone, has been your experience?—A. That is my experience.

Q. In 1865, you went in the same vessel. Where did you then get your first trip?—A. At the Magdalen Islands.

Q. With the same result as during previous years?—A. I presume so.

Q. You did not fish on Bank Bradley at all?—A. Not on my first trip the second year.

Q. And during your second trip that year you caught some off North Cape and some on Bank Bradley. How far off North Cape was it?—A. I think I caught my second trip, in 1865, at the Magdalen Islands, and I think I stated so; but if I did not do so there, I caught them off North Cape.

Q. You are not sure where you took them; but if you fished at North Cape, how far off from it were you?—A. I think I stated that I fished at the Magdalen Islands on that trip, and I think I said so; but that has nothing to do with it. My memory is bad.

Q. You do not recollect where you caught that second trip?—A. I think now that I caught one trip in that vessel about North Cape; but I cannot exactly say whether it was that trip or a trip in the ensuing year.

Q. If you caught them at North Cape, can you tell what you took inside and what outside of 3 or 4 miles from the shore?—A. In that case I caught a small proportion of the trip inside the limits.

Q. When you fished off Prince Edward Island, was it your practice to run in and drift off?—A. If the wind was off shore, I would do so; but if the wind was inshore, I would not.

Q. You do not fish inshore at Prince Edward Island with an inshore wind?—A. No.

Q. Is it not a fact that 5 days out of 6 during the fishing season, the wind there blows offshore?—A. That was not the case when I was there. The little I have been there was usually in September. Then the weather sets in blowy and it gets blustery. You are as likely to get the wind from the northwest as from the southwest at this time in my experience. Where I was one could fish, I think, as well with a northwest wind as if it was from the southwest.

Q. You do not mean to say that you fished within the 3 miles of the shore with a northwest wind?—A. I could do so down at Georgetown.

Q. And I dare say you have done so?—A. I do not remember particularly of having done so.

Q. Have you ever fished off Georgetown?—A. Not that I remember of. I have not fished nearer it than on Fisherman's Bank.

Q. That is about 7 miles from East Point?—A. I think it is more than that, but I do not remember the exact distance.

Q. When you spoke of having taken your third trip that year between the Magdalen Islands and Cape Breton, did you mean that you caught them off North Cape, C. B., or between the Magdalen Islands and Margaree, or partly in one place and partly in another?—A. I mean between Entry Island and Cheticamp, or between that and Cape North.

Q. How far offshore are the fish generally taken about Cheticamp?—A. Farther off than about Margaree.

Q. How far off?—A. When I speak of fishing inshore, I mean fishing from 3 to 5 and 8 miles from the shore.

Q. How far off shore have you been accustomed to fish about Cheticamp?—A. From 2 to 8 and 9 miles.

Q. Have you caught many fish within the 3-mile limit there?—A. No.

Q. You have never fished there often?—A. I fished there part of one trip.

Q. And that is all?—A. Yes.

Q. The next year, 1869, you fished in the same vessel, taking the first trip off the Magdalen Islands; the second off North Cape, and the third around the Magdalen Islands, East Point, and Cape George; what proportion of the third trip was taken off East Point and Cape George, and what proportion within the limit?—A. From 25 to 30 barrels.

Q. You said you did that on the second trip that year?—A. I presume that I did.

Q. You said that the third trip was a mixed trip, and that you caught some of the fish at the Magdalen Islands, but the most of them about East Point and Cape George?—A. I do not remember saying that I took the most of them there. I stated that it was what I call a mixed trip. Some were caught at the Magdalen Islands; some between these islands and Cheticamp, some between that and East Point, and some between that and Fisherman's Bank.

Q. You kept no account of what were taken within the limits, and of what were not so caught in 1866?—A. No.

Q. Had you a license in 1866?—A. Yes.

Q. So you had a right to go inshore, and you did not keep any special account regarding your catch?—A. Yes; as far as the license is concerned.

Q. You stated the gulf inshore fisheries were of no use?—A. I did not say they were of no use; at least I do not remember of having done so.

Q. Why then did you take out a license and pay for it?—A. One reason why I did so was my owners advised me to do it; and another reason was, if I was in and made a harbor and wanted to try inshore, I wished to do so without running the risk of being taken.

Q. You could make a harbor without a license?—A. Certainly. I said that if I was inshore in a harbor, I might try for fish within the limits.

Q. Then the inshore fisheries are of some value?—A. If you can catch any fish inshore—yes.

Q. Have you seen many boats fishing along the coast of Prince Edward Island?—A. I have; some.

Q. Only a few, I suppose?—A. I have seen as many as 30 at a time, I think, while passing along the shore.

Q. Do you know of any place in the world where there is a better boat-fishery than there is off Prince Edward Island?—A. I could not say; I was never boat-fishing.

Q. Have you seen as many as 30 boats there in one place?—A. I saw them along the island. I do not think there is a place about the island with 30 boats, where I could see them fishing from my vessel's deck.

Q. How far off could you see them?—A. Four miles, I presume.

Q. Would it surprise you to learn that in some of the harbors of the island there are as many as 150 and 180 boats?—A. No; I do not doubt your word.

Q. When you saw those boats fishing how far off from the shore were they?—A. From 2 to 7 miles off the island.

Q. What size was a boat which fished 7 miles off shore?—A. I presume that it was an open boat. I know in fact that most of them were open boats, but I could not give their dimensions. I would not wish to try to do so.

Q. What year was this?—A. I cannot remember. I have not confined myself to any year in this respect.

Q. How far were you from these boats?—A. I presume that they were on both sides of me when I was running up the island. I do not know why I should be outside of all these boats which fish there. I presume that some were outside and some were inside of my vessel. I will not swear to being on any one side of all these boats. If I was running from East Point up to Malpeque and ran through a fleet of boats I would as likely be in the middle of them as outside of them, because I would be running up there in good and not in bad weather.

Q. Do you not make a practice of fishing where you see the boats fishing off Prince Edward Island?—A. No; I have tried there and caught little or nothing. I had men with me who called the fish there boat mackerel. The boats would lay to an anchor and catch mackerel when I could not do anything with the vessel.

Q. What year was that?—A. I do not remember.

Q. At what part of the island was it?—A. I do not remember. I presume that it was about Rustico and about that way.

Q. You say you would prefer a duty of \$2 a barrel to the liberty of fishing within the limits of the bay?—A. I do.

Q. Why?—A. Because I think the mackerel which I take to market would then bring more.

Q. Would the price be then higher by \$2?—A. I could not say.

Q. What is your belief?—A. I believe that would be the case.

Q. Consumers might appreciate the matter differently?—A. I speak as a fisherman.

Q. You spoke of 200 vessels and upwards being in the bay some years ago from Gloucester; were there as many as 300?—A. I cannot go into the details.

Q. Was the number 300?—A. I think not.

Q. Did you ever examine the lists to see how many there were in the bay?—A. No.

Q. You are only speaking generally?—A. I speak from general information.

Q. Do you know as a fact how many vessels from Gloucester are this year in the bay?—A. I do not.

Q. Do you know whether the catch this year has been very good or not?—A. I presume from the general information I have received that it has been very slim.

Q. You have not taken means to post yourself on this subject?—A. No.

Q. Do you know how many vessels have returned from the bay to Gloucester with catches this year?—A. I do not.

Q. In your fishing you generally kept clear of the Bay of Chaleurs and you never saw large fleets in there at all?—A. No.

Q. Have you ever seen off the Prince Edward Island coast—several witnesses have mentioned the fact—as many as 300 American vessels in one fleet at one time?—A. I think not. I do not think that I ever saw 200 vessels in one fleet in the bay in my life.

Q. You did not go perhaps with the fleet?—A. I have been in the fleets.

Q. When?—A. Late in the fall; then the vessels generally fish in together.

Q. That would be down near the Cape Breton shore?—A. It was on the fishing grounds where I fished.

Q. Did you not fish about the Cape Breton shore mostly in the fall,

when the mackerel were returning?—A. I only fished there the year when I caught a trip there, in 1864; that was my last trip that year.

By Mr. Whiteway:

Q. On what bank were you fishing in 1865?—A. I do not know that I was fishing on any bank save Bank Bradley, and I presume I was there that year.

Q. Did I not understand you to say that between the 7th of March and the 27th of June, 1865, you made two trips?—A. I did so; you have reference to cod-fishing. I caught my first trip on the Western Bank.

Q. And the second?—A. I then fished off to the southward of Cape Sable.

Q. And then you closed your cod-fishery for that year?—A. Yes; I afterwards, in the first part of July, went into the gulf. I was engaged in fishing on the Banks from 1869 to 1872, inclusive, four years; though I may not have been fishing for one year during this time.

Q. In what vessels were you?—A. In the J. F. Huntress, E. L. Cook, and Arequippa.

Q. Had you an interest in those vessels?—A. No.

Q. But you were captain?—A. Yes, and that is all.

Q. During all those years did you go to the Newfoundland coast for bait?—A. I did go in 1870.

Q. And not during the other years?—A. I think not.

Q. To what port did you go?—A. I went to St. Pierre, and from thence to different places, for which there are no names I guess in Fortune Bay. I was at St. Jacques, Fortune Bay.

Q. When were you at St. Jacques?—A. In June, I think.

Q. What bait did you get there?—A. Herring.

Q. And that was in the spring?—A. I presume that it was in June. I know, in fact, that this was the case.

Q. Did you go immediately from Gloucester for bait?—A. No; I took some bait from Gloucester. During part of 1870 I was fresh-halibuting. I took enough herring to bait up my trawls once, and then I used small fish for bait.

Q. You left Gloucester with salt bait?—A. No; I took enough fresh herring to bait my trawls once; this was in 1870. If I remember right I went to the Grand Bank for halibut. I did not get a trip until after I had gone in for fresh bait.

Q. You went into St. Peter's?—A. Yes.

Q. And not being able to procure bait there you went to St. Jacques?—A. Yes.

Q. Where you got fresh herring and preserved them in ice?—A. Yes.

Q. Then you went out, finished your trip, and returned to Gloucester?—A. Yes.

Q. What was the result of that voyage?—A. I cannot remember.

Q. When did you return?—A. I do not remember. I made six or seven trips that year.

Q. To the Banks?—A. I left Gloucester that year, if I remember aright, the 1st of January, and from that time until I hauled up I made 6 or 7 trips.

Q. Whendid you leave off?—A. The first part of November, as nearly as I can remember.

Q. And in the mean time you made 6 or 7 trips to the Banks?—A. Yes.

Q. Did you go into any other ports in the Dominion or Newfound-

land, besides St. Peter's and St. Jacques, that year for bait?—A. Not that I remember of.

Q. What bait did you use?—A. Herring.

Q. Where did you procure it?—A. I came into St. Peter's for it.

Q. Then you went there several times during that year?—A. Yes.

Q. Did you go into any port in Newfoundland besides?—A. I only went up Fortune Bay for bait.

Q. Then you went in repeatedly that year to get bait?—A. I did.

Q. Fresh bait is far superior to salt bait, I believe?—A. Well, I think it is better than salt bait.

Q. Did you fish with a trawl?—A. Yes.

Q. And 1870 is the only year when you went into Newfoundland for bait?—A. It is the only year I remember of; yes.

Q. Did you go in there for it in 1871 or 1872?—A. I think not. I know that I did not do so.

Q. Are you certain that you did not?—A. I am clear that I did not go to St. Peter's or anywhere about the Newfoundland coast; but I think I got bait about this coast.

Q. At what part of the Nova Scotian coast?—A. I baited up once in Prospect. That was in 1873.

Q. I thought that you were mackerel fishing in 1873?—A. That was the case, part of the year.

Q. In 1871 and 1872 did you get your bait for Bank fishing on the coast of Nova Scotia?—A. In 1872 I did, but I do not think that I went Bank fishing in 1871.

Q. You stated just now that you were Bank fishing in 1871?—A. During those years there was one year when I did not go fishing; but in 1873 I went Bank fishing one trip, and afterward I went mackerel fishing.

Q. Where did you get your bait in 1869?—A. I think that I did not go banking that year.

Q. Then you did not go Bank fishing in 1869 or 1871; and you only fished on the Banks in 1870 and 1872 and the first part of 1873?—A. Yes.

By Mr. Dana:

Q. You went to Saint Pierre for bait?—A. Yes.

Q. Is that as good as any place in Newfoundland for the procuring of bait?—A. I found that I could get bait every time I went there during the years I frequented the Banks.

By Mr. Whiteway:

Q. You now refer to the French Island?—A. Yes.

Q. I understood you to say that you went to Saint Peter's to get bait, and not being able to procure it there, went to Saint Jacques?—A. I first said so. I think that I went there one trip when I did not get any bait and had to go for it up Fortune Bay, but at other times this was not the case.

No. 20.

BENJAMIN MADDOCKS, fish-dealer, of Gloucester, Mass., was called on behalf of the American Government, sworn and examined.

By Mr. Dana:

Question. When did you cease to go fishing?—Answer. I went on my last trip in 1852.

Q. When did you make your first fishing voyage?—A. In 1826.

Q. Where did you go then?—A. Down the Bay of Fundy, off Mount Desert.

Q. You were fishing for mackerel?—A. Yes.

Q. You did not go to the Gulf of St. Lawrence?—A. Not then.

Q. When did you make your next voyage?—A. In the Spring of 1828 on this coast, cod-fishing.

Q. What did you do in your next voyage?—A. In 1829 I was cod-fishing during the latter part of the season in the Bay of St. Lawrence.

Q. Was there any such thing then known as mackerel-fishing in the bay as an occupation?—A. I do not recollect that anything of the sort was then done.

Q. What did you then mostly use for bait?—A. We caught mackerel to use as bait for codfish.

Q. What did you do from 1829 to 1833?—A. I was then fishing on our own coast.

Q. For what?—A. Cod and hake.

Q. What sort of luck did you have?—A. We did what was considered then a fair business.

Q. Where did you go in 1833?—A. Into the Bay of St. Lawrence cod-fishing.

Q. What did you do from 1833 to 1847?—A. From 1833 to 1847 I was fishing for the larger portion of the time on our own coast, and I also made one or two foreign trading voyages during that time.

Q. Did you go to the Grand Banks during that period?—A. I was there in 1835 and in 1844.

Q. When did you make your first mackerel voyage?—A. In 1847, I think, to the Bay of St. Lawrence.

Q. How many barrels did you catch?—A. I was in a very small vessel. I do not think she would have held more than 150 barrels, and we got, I believe, about 100 barrels.

Q. Did you get them inshore or off shore?—A. Well, we caught them off shore.

Q. What did you do in 1848?—A. I went one trip to the bay, mackerel-fishing.

Q. What were the results?—A. We got about 90 barrels, I think, in the same vessel in which I was the year before. In 1849 and 1850 I was not fishing. I did not go fishing from 1848 to 1852, when I went one trip in the fall.

Q. Were you always during the latter part of this period interested in vessels?—A. Well, I had a small interest in two or three different vessels, I think, up to 1852.

Q. The last year you went fishing to the bay you went for mackerel?—A. Yes.

Q. That was in 1852?—A. Yes; I left on that trip about the latter part of August.

Q. How much did you get?—A. About 250 barrels.

Q. Where?—A. The larger portion of them we took broad off North Cape, P. E. Island, and toward Bank Bradley.

Q. How much do you think you caught off Bank Bradley?—A. Nearly 200 barrels.

Q. Where did you catch the other 50 barrels?—A. We made a good catch one morning down off Margaree. The men on board, I believe, thought we were then rather inside of the 3-mile range, but I was inclined to think that we were not.

Q. Is it not difficult to determine that question?—A. Yes.

Q. Why?—A. When you are near or in sight of high land, you al-

ways look to be a great deal nearer the coast than you really are in my experience; and if the land is low, the distance is not so great as it looks to be.

Q. So then you may be then 3 miles from land when you suppose that you are 4 or 5 miles off?—A. Yes.

Q. And if the land is high it is just the other way?—A. Yes.

Q. Is your ability to determine distances affected by the state of the weather?—A. Certainly.

Q. Did you ever take out licenses?—A. When I went to the bay I think no licenses were issued.

Q. Were any cutters there when you fished in the bay?—A. O, yes; this was the case in 1852.

Q. What is your experience in relation to cutters? What were the real dangers which the American fishermen feared from them, and what was the reason why they wished to be relieved from their interference by licenses or by treaty?—A. What we used to dread most was the annoyance the cutters occasioned us, when we did not go within what we supposed was 3 miles from the land.

Q. If a vessel was entirely innocent in this respect and did not even intend to go within three miles of the land, and did not do so still, what annoyance did the cutters occasion her?—A. O, well, I suppose they might have thought we were nearer the land than we actually were. Our fishermen were afraid that they would trouble us even when we were farther than 3 miles from the land.

Q. They could not always tell the distance?—A. They could not always do so. Some might say we were three miles off shore and others four or five miles. There is that much difference in the judgment of these distances, and when we were five miles off shore we didn't know but the cutters would consider it three miles.

Q. And besides they might have a personal interest in seizing you?—A. Yes.

Q. Suppose that a vessel turned out to be innocent in this relation, was she restored next day or was she often kept until the end of the season?—A. Some of our vessels were confiscated, but I do not recollect of any vessel that was seized when so innocent and held for a long time. This might have, however, been the case in some instances.

Q. Were any held until the end of the season before they were released?—A. I do not recollect of any with which this was the case.

Q. Did you hear of any such instances?—A. I do not know that I did.

Q. There was also an unsettled question as to how the three-mile line ran—as to whether it ran from a line drawn from headland to headland?—A. Certainly.

Q. Did the Americans generally know that the British held they had a right to seize vessels within the three-mile line drawn from headland to headland, which we denied?—A. Yes. I was aware of that at the time.

Q. After 1852, when you made your last fishing voyage, what did you do?—A. From 1852 to 1858 I was in business at Southport mainly. We used to fit out vessels to fish on the banks in the spring until about the middle of July, and then they went into the Bay of Saint Lawrence for mackerel.

Q. About how many vessels were you interested in during these six years at Southport?—A. From 1852 to the time I left Southport I think I was interested in vessels to the number of all the way from ten to twenty, from year to year.

Q. During that period while you were at Southport you say you were

engaged in cod-fishing on the Banks in the spring. What kind of bait was used by your vessels?—A. Clam bait wholly.

Q. Were your vessels hand-liners or trawlers?—A. They were hand-liners, they used to fish over the rail at that time.

Q. They didn't have boats even?—A. No; they fished from the deck of the vessel.

Q. Did they make respectable voyages?—A. Yes.

Q. What time did they generally go into the bay?—A. From the first of July to the middle of July generally. They used to make two trips.

Q. Now, when those vessels returned did you as agent usually learn where they fished?—A. Well, yes. I recollect hearing the men telling about where they would get their best catches.

Q. According to their reports where did they get their best catches?—A. About the Magdalens principally.

Q. You have been in the bay several years fishing, and you have heard the reports of owners and underwriters I suppose. What do you consider the safest part?—A. We used to consider the Magdalens were safe.

Q. Why?—A. Well, on account of the wind shifting we could run around the islands and make lee with almost any wind.

Q. Now, how is it with the north side—the bend of Prince Edward Island?—A. That was considered the most dangerous part of the bay.

Q. From what reasons?—A. Well, from its being quite a deep bay; if the wind came up from the southeast, to the northeast or north, the sea would come up very suddenly.

Q. Is it rather a shoal shore?—A. Yes; we would have a heavy sea, and a vessel getting in there would find it very difficult to get out with it blowing heavily.

Q. Look at the chart for a moment. (Witness refers to chart.)

Q. Now suppose the wind was easterly, what you call an east-south-east gale, and you are here (pointing to chart), what chance have you to weather East Cape?—A. If you were up anywhere toward this bight you would have a hard chance to get out.

Q. Then with a gale from southeast to east-northeast, if you were near inshore toward North Point, it would be difficult?—A. Yes.

(Mr. Davies asks witness to put his finger upon the place, and witness points to map, near Kildare Cape.)

Q. If you were on the eastern part of the island, with an east-south-east gale, you could go where you liked?—A. Yes.

Q. But with the wind westerly it would be dangerous about getting clear of North Cape?—A. Yes.

Q. Now, if the wind is more to northward, east-northeast to north-east, how would it be if you were near shore in any part of the bend? Does not a northerly wind blow as straight into the bend as it can?—A. Yes.

Q. What chance would you have to escape a northerly gale if you were close in on the north side?—A. No chance whatever.

Q. Do you know anything about Cascumpec Harbor?—A. I was there once.

Q. How did you find it?—A. I should think it was rather a difficult place to get in; rather shoal.

Q. Is there a heavy sea there?—A. Yes; with the wind blowing inshore.

Q. Then Malpeque, what do you think of that?—A. I have never been there.

Q. Have you been near it?—A. Not very near it. I know nothing about it more than I could learn by the chart.

Q. Now you say from 1852 to 1858 you were engaged in business at Southport. Did you return to Gloucester?—A. I commenced business in Gloucester in January, 1858.

Q. Have you remained in the fishing business up to this time?—A. With the exception of two years I have been actually engaged in the fishing business there. For two years I had a partial interest in different vessels. I was not engaged directly.

Q. Except these two years have you been an agent and manager of vessels?—A. I have.

Q. And engaged both in the cod and mackerel business?—A. Yes.

Q. Now, I take that period from 1858 on, excepting the two years you refer to. How have you fitted out your cod-fishers for Banks as to bait?—A. When we fitted them out we put aboard some clams and some pogies.

Q. Are the pogies put on board fresh?—A. No; salted.

Q. When did you first know—how many years ago—of any of the vessels going in either to some port in Nova Scotia or of Newfoundland for fresh bait?—A. The Bankers? I think it is not more than four years since they went in to make a business of getting fresh bait.

Q. Are there plenty of clams to be found on the American coast to fit out your vessels?—A. Yes.

Q. There is no difficulty?—A. No.

Q. Have your Bankers for the last 12 or 15 years been trawlers or hand-line fishers?—A. They have been trawling I think about, well, 8 or 9 years.

Q. Before they were hand-liners?—A. Yes.

Q. Sir ALEXANDER GALT. Does he mean that they are now all trawlers?

By Mr. Dana :

Q. Do you mean to say that the vessels you are engaged in and have been for the last 8 or 10 years are all trawlers?—A. All we send down to the Banks. A good many vessels fish on the Georges, and always fish over the rail.

Q. But those you send to the Bank are all trawlers?—A. Yes.

Q. Do you know whether for the last year many of your vessels have gone in for fresh bait as a practice?—A. Well, I think they have, about all of them.

Q. You have had about something like about four years' experience, then, of that practice?—A. Yes; about that.

Q. Now, fresh bait is better than salt bait, is it not, for the single catch?—A. Yes.

Q. So that if two vessels are lying side by side under exactly the same circumstances, equally good fishermen, and all that, both hand-liners or both trawlers, for the time being, the men using fresh bait would have the advantage?—A. Certainly.

Q. Now I ask you a totally different question. Taking the commercial results for the whole season of two vessels under equally good circumstances in all other respects, one depending upon going into Newfoundland to get fresh bait as often as necessary, and the other staying out and using salt bait and such bait as she can get there, which is the most profitable as to the commercial interests of all concerned? You have had experience of both.—A. I think the difference would be in favor of the vessel that lay on the ground and kept on fishing with the salt bait.

Q. How strong an opinion have you on that point?—A. My opinion would be strong enough to induce me to give my captains express orders not to go in for bait, which I have done a good many times. But they go contrary to orders.

Q. Do you think that the captains of the vessels are a little apt to prefer running into port occasionally to standing out?—A. Yes, sir; they are are very much in favor of going in.

Q. You have drafts drawn upon you in consequence of those vessels going in to Newfoundland?—A. I have.

Q. What are they entitled? What are they said to be for?—A. Well, a good many times when we have drafts come we haven't had any bills accompanying them. Sometimes we let them go to protest.

Q. Where there is no bill?—A. On account of not having a bill.

Q. Where you have proceeded in compelling them to present bills what do they generally stand for? What do they say the money is spent for?—A. Well, sometimes the men will be charged with some of the money they draw for. The captains will advance the men some of the money, but the larger portion of it falls on the vessel.

Q. There are some little dues to pay, port charges, &c.?—A. Yes.

Q. Now is the rest called bait?—A. Yes; the money is for bait.

Q. Do you know how much of that called bait is actually bait?—A. We have no way of knowing any more than to take their word for it.

Q. Bait is the term under which this money is placed?—A. Yes.

Q. Would you consider it an advantage or a disadvantage to the commercial and pecuniary interest of all concerned, the master, crew, and owners, to have them all prohibited from going in for fresh bait?—A. If there was any authority to keep our vessels out, if the Canadian Government had any authority to keep all vessels out, I should be greatly in favor of it; I should be willing to let them take every vessel they found within three miles of land.

Q. Now do the cod-fishers continue to do well? You say those that don't go in do better than those that do?—A. Yes.

Q. You say those that don't go in do best?—A. Yes.

Q. Are they doing pretty well?—A. No; they haven't been doing what I call doing well. They don't get enough to pay expenses.

Q. You include those that go into port? Do you mean only those?—A. Well, all our vessels that go to the Grand Banks go in for bait now.

Q. They are not doing well?—A. No.

Q. You have a fixed opinion that it would be better for them not to go in?—A. That is my opinion.

Q. If you had the sole management and could make your captains do as you wished, you would not have any do it?—A. No.

Q. Now about the mackerel business. During the last five years what has been the amount of the mackerel-fishing in the bay? I do not mean to ask you the exact amount, but has it been large or small compared with past years in the town of Gloucester?—A. It has been very small compared with other years.

Q. How many mackerel-vessels do you suppose there were from Gloucester in the gulf 10 years ago. Have you any notion?—A. I have not any way of knowing, but I should judge that there were from Gloucester perhaps near 200 sail of American vessels in the gulf.

Q. How many are there now?—A. This year there are more than there have been for the past two years. I think this year there may be 50 or 60 sail.

Q. How many were there two years previous?—A. I don't think last year there were more than 20 sail.

Q. The year before that ?—A. There might have been a few more than that the year before.

Q. How do you account for this steady diminution, steady, that is, excepting the variation of perhaps ten vessels. How do you account for this diminution down to the present year in the number of mackerel vessels in the gulf from your town ?—A. Because the business has not paid.

Q. How does the shore mackerel—by shore mackerel you mean mackerel in the markets understood to be caught on the American coast ?—A. Yes.

Q. Those caught in British waters are called bay mackerel ?—A. Yes.

Q. Now, how do the shore mackerel compare in the market as to the price they bring ?—A. Well, we have on our coast different qualities. It appears to me there is more difference in the quality on our coast than there is in the bay.

Q. Well, I take No. 1 then. How do those marked as No. 1 Shore Mackerel compare with those marked as No. 1 Bay Mackerel ?—A. Well, the bay mackerel, at least I should say the shore mackerel, has been a great deal better than the bay mackerel the last seven or eight years.

Q. That is not simply an opinion, but the market prices are better ? How much more do the No. 1 Shore Mackerel bring than the No. 1 Bay Mackerel ?—A. Well, there has been \$7 or \$8 difference between them. I have seen the time when the bay mackerel was equal to our shore mackerel. It has not been for the last seven years.

Q. Then as to the plentifulness or scarcity of the fish. From your experience as a dealer, how do the shore mackerel compare with the bay mackerel ?—A. It varies every year. Last year the mackerel were plenty on our coast. A great many vessels got from one to two thousand barrels, seining principally.

Q. Here it was very scarce ?—A. Yes, sir.

Q. Now, this year, so far as the returns have come in from the bay fishery, how has it looked ?—A. Well, we have had some considerable; many vessels went into the bay about the usual time, say the 1st of July; but I don't know that they have had any returns yet any way. I heard there was one trip that went up on the last boat. That is all the returns I know of.

Q. Then you are not able to give any judgment as to the results ? Can you tell us what the general impression is as to the probabilities ?—A. As we haven't had any returns, I should think the prospects are poor for the catch.

Q. If there had been good results you would have heard of it ?—A. Certainly.

Q. During your experience in the bay and from what you learned afterwards, will you be so good as to tell the Commissioners what you think as to the comparison of the value between deep sea fishing for mackerel and inshore fishing ? By inshore fishing, I mean within my three miles—one, two, and three miles off ?—A. From my experience, my judgment leads me to think that our vessels would get full as many, if not more, by staying outside of the three-mile range altogether. By going inshore they may sometimes get a spurt of mackerel, but they are then liable to go farther into the harbors and lose a good deal of time; whereas if they would fish farther off they would save a good deal of time. I think that for 10 or 20 years back they might have caught, well, somewhere from a 10th to a 15th part of the mackerel within the

three-mile range. I don't know but what they have. I don't think anything more than a 10th part certainly.

Q. Do you include in that the Magdalens as well? Do you mean within three miles of all the coast?—A. Yes, sir.

Q. Magdalen Islands and all?—A. Certainly.

Q. Perhaps you know that before the Washington Treaty we had the right to fish as near as we pleased to the Magdalen Islands?—A. Certainly, we always understood that.

Q. And also Labrador?—A. Yes.

Q. What the treaty gives us is the other places. Now taking the rights we had, irrespective of the treaty, to use Magdalen Islands and Labrador as we pleased, do you attach much practical value to the additional privilege of going within three miles of other parts of the gulf?—A. I would not think there was any money value in it.

Q. Taking it through?—A. There is not any money value there.

Q. Now, you have given one reason, and that is the danger of vessels being too fond of lying in port?—A. Yes, sir.

Q. Now, how do you think the fish caught, when they are caught, compare with those caught in the deep waters or on the Banks?—A. Well, the fish caught along Prince Edward Island are the poorest fish caught in the bay; they are generally of small size.

Q. Well, the fattest and stoutest fish are caught in the autumn in the bay?—A. Yes, that is my experience.

Q. Do you think much of the Bend of Prince Edward Island in the autumn as a fishing-ground?—A. No, I do not; we have caught some very fine mackerel down on the Cape Breton coast there off Margaree.

Q. Is that a good fishing-ground?—A. Yes.

Q. You get good fish there in the autumn?—A. Yes.

Q. And at the Magdalens?—A. The Magdalens mackerel are the largest we get in the bay—up about Bird Rocks.

Q. The largest and best of all are those caught on our own coast?—A. North about Magdalen Islands and Bird Rock is the best in the bay.

Q. But of all the No. 1 mackerel caught, the best, according to the market rates, are those caught off the coast of the United States?—A. O, yes.

Q. Now, I ask your attention for a moment to the subject of boat-fishing, including among boats anything under 20 tons. You have small open boats to begin with. Is there a great deal of day and night fishing near Gloucester?—A. Yes.

Q. Dory fishing?—A. Some considerable.

Q. They catch mackerel, and what else?—A. Haddock, in the winter.

Q. The haddock in the winter is sent fresh into the market?—A. Yes.

Q. The rest of the season's fish is also caught in dories?—A. Yes.

Q. Take now the larger vessels, which are still called boats, having a cuddy decked over, which fits them for a day or two or two or three days' fishing. Is there a good deal of that?—A. Some considerable.

Q. How do they succeed in their fishing altogether?—A. Well, the people about Gloucester and Cape Ann do pretty well. They get a good living. That is what we call doing well.

Q. Those small vessels fish all the winter and summer?—A. Yes.

Q. Has the shore fishery from Gloucester increased or diminished for the last ten years?—A. Increased greatly.

Q. In numbers and profit, do you mean?—A. Yes, sir.

Q. Is there much herring caught by your Gloucester boats and vessels?—A. There is a school of herring comes there about this time in the fall, and lasts about—well, as much as three or four weeks.

Q. Is it very plenty?—A. There is a good many of them caught, thousands of barrels.

Q. How are they caught; from the boats?—A. With nets principally.

Q. How big are those nets? Some five or six fathoms long?—A. Twelve or fifteen fathoms long.

Q. Fifty or sixty feet long?—A. Yes.

Q. More than that?—A. Yes; some ninety.

Q. That is a very great supply?—A. Yes; there is any quantity of them.

Q. Your Gloucestershire vessels that want to go and stay in the bay through the autumn—those you have had built that have been in use the last twelve or fifteen years are large sized and good vessels?—A. Yes, sir.

Q. They draw about what, when they are half full?—A. I should think our vessels that go into the bay would draw from $8\frac{1}{2}$ to 12 feet of water.

Q. If there is danger of heavy weather, it behooves them to be pretty careful what harbors they enter and what coast they are on?—A. Yes.

Q. It is not your opinion that if a vessel draws twelve feet she can go safely into a harbor when the depth is only twelve feet in the still water by any manner of means?—A. No; it would not be very safe.

By Mr. Doutre:

Q. When did you say you heard for the first time there were mackerel in the Bay of St. Lawrence?—A. In 1847.

Q. You never heard of it before?—A. Not mackerel fishing.

Q. Where do you say you fished in 1847; what part of the bay?—A. I think we fished abroad off North Cape, and towards Bradley Bank. Then we ran over to Magdalens. I think, when I left the bay, I came direct from the Magdalens that fall.

Q. What did you consider a good catch when you went into the bay?—A. That depends upon the size of the vessel.

Q. In what kind of a vessel did you go there?—A. The one I was in was a small vessel. She would not stow more than 150 barrels. I think I got, perhaps, two-thirds of the quantity she would carry. Somewhere about 100 barrels.

Q. Did you consider that a good catch?—A. No; I did not.

Q. How many men had you on board?—A. About seven or eight.

Q. What was her tonnage?—A. Thirty two tons of our previous measurement.

Q. Now, to sum up all your fishing in the bay, do you mean to say you never fished within three miles?—A. I don't know as I understand you.

Q. Do you mean to say you never fished within three miles of the coast?—A. I don't think I ever did. I don't know but what there might have been some people that might have been in very nigh. Some of the crew might have thought we were within three miles, but I can't recollect any time when I supposed we were within that distance of the land.

Q. Well, did you ever see people from Prince Edward Island fishing?—A. I never did.

Q. You never were near enough to Prince Edward Island to see those shore boats fishing off there?—A. I have heard people tell of them.

Q. Did you hear they were fishing?—A. I know of them fishing about there, but I was never near enough to see them. I have heard of those shore boats catching mackerel.

Q. Do you know how far from the coast they were fishing?—A. I didn't know how far they might come off.

Q. Could their boats allow them to go far from the shore? Did you see any of those boats?—A. I never saw them.

Q. Did you hear what size they were?—A. No; I don't know that I ever heard the dimensions. I believe they are not deck-boats.

Q. So you have always fished outside of three miles, you say?—A. I don't think I ever fished inside.

Q. Did you ever see any Prince Edward Island, Nova Scotia, or Quebec people fishing near you?—A. No; I don't recollect that I have.

Q. So if they have been fishing they must have been fishing far away from you?—A. I never saw them, not in those open boats. I may have seen some of their large vessels in the bay, but not to distinguish them from our own.

Q. You have never been in the bay since 1852?—A. That was my last trip there.

Q. Did you ever fish in any of the bays, such as Bay Chaleur?—A. No; I never was in Bay Chaleur.

Q. Have you ever been in Gaspé Bay?—A. No; I have never been in Gaspé Bay either.

Q. You are not aware at all what was going on during the whole of the Reciprocity Treaty, except from hearsay? You have no personal knowledge of anything?—A. I was in the fishing business all that time. I used to listen to what our men said. Perhaps I didn't pay particular attention to it. I never remember anything particular.

Q. You have never been yourself, during the existence of the treaty, in the bay?—A. I have never been since 1852.

Q. I have taken down here that you said you would not fish in the bend of the island because it was too deep. Did I understand you?—A. I didn't say I would not fish there. I said I considered it more dangerous than any other part of the bay.

Q. I have taken down because the water was too deep?—A. No; I didn't say that. We didn't heave the lead over to see how deep the water was on account of the mackerel. We were not particular about the depth.

Q. It was on account of the prevailing winds only that you didn't like that part of the island?—A. O, yes; if you go into shoal water the sea comes up suddenly. It makes it more dangerous.

Q. Have you any knowledge of the number of vessels engaged in fishing from Gloucester?—A. The number fishing in the Bay of St. Lawrence?

Q. Anywhere?—A. The whole of them? Well, I should think 300 sail. I don't believe but what there is that many.

Q. All of a tonnage to go to the Bay of St. Lawrence?—A. O, no; very few of them go.

Q. I don't say that they go, but that they are all of capacity to go?—A. Certainly. The larger portion of them are of the right size to go to the bay. That is, if there is anything there to make it pay.

Q. What is the population of Gloucester?—A. I think about in the neighborhood of 18,000; 18,000 or 19,000, I should think.

Q. Has it not been built almost exclusively from the fishing industry?—A. Fishing is the principal business and has always been.

Q. Where would they go generally fishing?—A. To George's Banks principally.

Q. That is on the coast of Maine?—A. That is abroad off the eastward of Nantucket. Between the Grand Bank and Nantucket shoals is what we call the South Channel. The South Channel is inside of George's Banks.

Q. Is that only cod-fishing?—A. Yes; cod-fishing exclusively. Well, we have sent vessels off there mackereling, but they didn't seem to do very much there for the last year or two. It used to be a good fishing-ground for mackerel.

Q. What other places are there for mackerel?—A. Our own coast.

Q. Has that been good along for the last fifteen or twenty years?—A. There have been a great many mackerel taken on our coast during the last four or five years.

Q. Previous to the last five years, were there many?—A. Yes; it has always been a business which our vessels have followed.

You mean to say for the last five years it has been more abundant?—A. Yes; last year especially.

Q. This year how is it?—A. Rather a failure. The mackerel fishing varies every year. You don't get any two years alike.

Q. Well, I want to know whether the mackerel-fishing is so remunerative in American waters that they need not go anywhere else?—A. Well, that is what we have done the last three years. What we have done elsewhere is a mere fraction. It does not amount to anything.

Q. In 1852 you went in the bay. Why didn't you remain in your own waters; it was nearer to you and handier in every shape?—A. I suppose we thought we could do better going in the bay.

Q. Then you were not doing well enough in your own waters, since you were looking for other quarters?—A. Well, we were in hopes we would do better.

Q. Well, you say that from 1852 to 1855 you were interested in some twenty vessels?—A. I think I had all the way fifteen to twenty sail, I believe.

Q. How many of these came in the bay from 1852 to 1855? Didn't they all go?—A. Well, all my vessels that I had an interest in at that time. Our business was to fit them in the spring for the barks, and after that, say about the first or middle of July, for the bay. Some of them would go two trips.

Q. Did you send them all?—A. The principal part of them.

Q. Why didn't you fish in your own waters?—A. We did sometimes. Sometimes we would fish in our own waters and also in the bay in the same season. We would send them away to the bay the first of July, and when they came home we would keep them on our own coast.

Q. I suppose the trip is far shorter in your own waters than to come into the bay. When you send your vessel from Gloucester to the Bay of St. Lawrence, how long after do you expect her to return?—A. Well, it is just according to how plenty the mackerel are.

Q. What is the average time they take?—A. I suppose it may be about—some years it is longer than others—I should say about eight weeks for an average trip.

Q. Well, when you send these same vessels into American waters mackerel-fishing, how long does it take for a trip?—A. Well, they would stay out three or four or five weeks, may be. Then again, they are handy home. They can come in just as soon as they get a few mackerel, and land them, thinking they can get a better price than if they wait to make a full trip.

Q. So that when you come to the Bay of St. Lawrence is it not because you don't find remunerative trips in your own waters?—A. When we come to the bay we are in hopes of doing better than we could on our own coast; and when we fish on our own coast we are in hopes of doing better than by sending to the bay.

Q. Well, the reason you think you do better fishing beyond the three

miles is that your vessels will not go into port so much?—A. The reason, I think, is that I think we could save time; the vessels, when they get close in, are apt to go into harbors after they are done fishing.

Q. But when you were your own master and skipper of a vessel, you had control of your own crew. You trusted yourself, I suppose. Why didn't you go in then?—A. I used not to go within, because I was not well acquainted around the shores. It was not the custom of the fishermen in those times to go in shore. Since that time we have a great many Nova Scotia skippers. They consider they are close home, and they consider they have a natural right to fish in there. They are acquainted in there.

Q. Now, from the vessels you are acquainted with, fishing in the bay, are they not mostly fishing within three miles from what they report to you?—A. Well, I have an opinion that they get only a very small portion of their fish in shore. It is very seldom they go within three miles, or that they used to go within.

Q. That is what they report to you?—A. I should think so, from what I have heard them say.

Q. Had you at your service during those years, from 1852 to 1858, any British subjects? Do you know of any that you could name; people from Nova Scotia or Prince Edward Island?—A. Certainly.

Q. Could you name some of them?—A. I can't remember names. I have them now. I have different men on my vessels—one man named John Scott, who belongs to Canseau. He has been with me for the last ten years. I have had different men of the name of McDonald.

Q. Is John Scott still living?—A. He is in the bay now, fishing for me. I don't recollect ever hearing him say he got any mackerel within three miles of the land. I suppose he might have caught some inshore. He never says much about it.

Q. How many vessels now have you fishing in the bay?—A. I have three. I haven't had any fishing in the bay before, I think, since 1872. I had one in 1872; I think one in 1873. That is the last year, I think, I have had them until this year.

Q. Is Scott the only man you can name as a British subject that has been employed in your vessels?—A. No; I have others.

Q. Please give their names?—A. I can't think of their names. I am running ten vessels now.

Q. Where are the other seven?—A. I have three on the Grand Banks, two home, hauled up, and two more on the George's, I think.

Q. So that there are five of your vessels which are in the British waters now fishing?—A. Well, I don't know what you call the Grand Bank; I don't know about that.

Mr. DANA. The claim that the Grand Banks are British waters has been abandoned.

By Mr. Doutre:

Q. Did you ever fish in the bend of Prince Edward Island?—A. I don't believe I ever did. I don't recollect fishing in the bend of the island.

Q. What you have said of the danger of the bend of the island is all from hearsay? You don't know anything personally?—A. Well, I have—

Q. What is your answer?—A. I know it is a dangerous place. Yes; I know by hearsay, and I have lost a vessel there. I lost one vessel there which came out of Malpeque. That was the last year I ever heard from her.

Q. Was it not in the gale of 1851?—A. No; in 1859. She was a good vessel, too. I hadn't any insurance on her. My brother was in her.

By Hon. Mr. Kellogg:

Q. You never heard of her?—A. No.

Q. Where was she lost?—A. She came out of Malpesque at 12 o'clock in the day, and the wind was south then, a moderate breeze. The wind died away, and then chopped right around from the northeast, and that night it was a heavy gale; a very heavy gale; that was the last we heard of her.

By Mr. Davies:

Q. Will you name the vessel?—A. The E. S. Pendleton.

Q. Did she get ashore; was the wreck found on the coast?—A. I think not; no.

By Mr. Whiteway:

Q. How long were you fishing on the Grand Bank?—A. I was on the Grand Bank in 1835.

Q. What was the last year you fished there?—A. 1845, I think.

Q. Since that time you have not been fishing on Grand Bank. Have you been in the gulf?—A. Yes; cod-fishing.

Q. Personally?—A. I was in the Bay of St. Lawrence cod-fishing that same year, 1845. I was on the Grand Bank in the spring, and the Bay of St. Lawrence in the latter part of the season.

Q. Well, then, you have no personal experience as regards Bank or deep-sea fishing since 1845?—A. No; I have not been cod fishing, I believe, since 1845.

Q. Well, now, you have owned several Bank vessels for several years past?—A. I have always owned some vessels since 1845.

Q. Have these vessels, or any of them, been engaged in deep sea or Bank fisheries?—A. Yes.

Q. How many of them?—A. More or less each year. I could not say. I have had an interest in a good many different vessels.

Q. How many from year to year? Varying between what number, and what other number?—A. I cannot fix it in my mind how many different vessels that I have had an interest in any particular year that have been in the Grand Bank fishery.

Q. But can't you say between that time and the present how many you have been interested in?—A. At what time?

Q. Between the time you left off fishing in 1845 and the present time.—A. I think I have owned all the way—I don't believe I have had any one time an interest in less than ten vessels. Say up to twenty.

Q. How many of those have been engaged in deep sea or Bank fishing?—A. Well, some parts of the season there might be seven, or eight, or ten may be. Then some parts there would not be so many.

Q. Hand-liners or trawlers?—A. We were always using hand lines. I think it was seven or eight years since, perhaps, that we adopted the method of trawling.

Q. Now you always use the trawl on the Banks?—A. Yes; for the last few years.

Q. For the last seven or eight years?—A. I think so; generally.

Q. Now, all those vessels you speak of fitted out from Gloucester, of course?—A. No; I have been interested in a good many vessels in the State of Maine.

Q. Can you tell me now how many vessels fit out for the cod fisheries.

the Grand Bank fishery, from Gloucester?—A. I haven't any means of telling you how many.

Q. You don't know?—A. No; I couldn't tell how many. I should think, perhaps—

Q. Never mind "perhaps." If you don't know, that is the end of it. How many have you had carrying on the fishing on the Grand Banks for the last seven or eight years?—A. I don't think I have averaged more than five vessels, perhaps, a year for the last seven years.

Q. Have those five vessels exclusively carried on the fishing on Grand Banks?—A. No, sir; they go to the Grand Banks part of the season, and in other fisheries other parts. As a general thing we fit them out first to go to the George's in February.

Q. What time do they go to the Grand Banks?—A. Some of our vessels don't go to the George's, and we send them to the Grand Banks the first of March.

Q. They go the first of March, having landed their trips?—A. Well, some we don't send to the George's at all.

Q. I am speaking now of those five that you say you are interested in; do they go to the George's first and then on the Grand Banks?—A. Some do.

Q. Then they come in and land their fare, and go to the Grand Banks the first of March. Is that it?—A. No; those that go to the George's don't come in until May generally.

Q. Are there not some that go to the Grand Banks in February?—A. Some go; those that we don't send to the George's at all. They go as early as the first of March.

Q. They go direct?—A. Some do.

Q. What bait do those vessels take?—A. We generally put on board some salt bait to start with.

Q. What bait do you take from Gloucester?—A. They take slivers—pogy sliver and clams.

Q. Both salted?—A. Yes.

Q. They take no other bait?—A. No.

Q. You are clear they take no other bait except salt slivers and clams, the vessels that go to the Grand Bank from Gloucester?—A. I don't know; they might some of them. I have a recollection of one or two cases where fresh bait was taken. They had ice. That was only once or twice, I think.

Q. Only once or twice you remember fresh bait being put on board?—A. Yes; never more than twice, to my recollection.

Q. Now, you are clear upon that, that vessels that fish from Gloucester and go to the Grand Banks take nothing but salt clams and pogy slivers?—A. I don't know what some of them might have done. I could not tell. Some of them might have taken fresh pogies, the same as I have done.

Q. But you are thoroughly conversant, are you not, with the description of bait the Grand Bank fishers take?—A. Certainly.

Q. You have a thorough knowledge of how they are fitted out?—A. I have been right in the business.

WEDNESDAY, September 26.

The Conference met.

Cross-examination of BENJAMIN MADDOCKS, by Mr. Whiteway, continued.

Question. Could you inform me of the number of vessels fitted out for the Grand Bank fishery from Gloucester?—Answer. I have not any means of knowing the exact number.

Q. You could not say approximately?—A. I could not say.

Q. Nor do you know how many are fitted out from that port for the mackerel fishery to the Bay of St. Lawrence?—A. This year?

Q. Take the whole fleet?—A. No.

Q. Tell me, if you can, the number for the Gulf of St. Lawrence of cod and mackerel fishers from Gloucester?—A. I should think there might be perhaps 55 or 60 sail this season.

Q. I think you said the vessels that are now fitted for the Grand Bank fishery are fitted entirely with trawls?—A. Yes, sir; from Gloucester.

Q. How long have they fished with trawls only?—A. I think they have been fishing with trawls principally for seven or eight years past.

Q. Prior to that, how did they fish?—A. They fished with hand-lines before that time.

Q. Those hand-lines, did they fish from the deck of the vessel, or did they use small boats?—A. They fished from the deck of the vessel.

Q. Entirely from the deck?—A. Principally, those from Gloucester. Some others from other ports fished with some dories.

Q. The vessels from other ports fished some with dories?—A. Yes.

Q. From Gloucester they fished altogether from the deck of the vessels?—A. Yes; until within the last seven or eight years.

Q. Yes; when they have used trawls?—A. Yes.

Q. Well, can you speak positively now as to the mode in which vessels from other ports besides Gloucester have fished? You say they fished partly in dories, and partly from the deck. Can you speak from your own knowledge, or positively upon that subject?—A. All I know is that vessels from other ports have fished partly from off deck, and partly with small boats.

Q. You don't know what proportion?—A. The proportion will vary, perhaps, from one year to another.

Q. Speaking of those vessels fitting out from Gloucester, upon what terms do you fit out those vessels, as regards the captain and the crew?—A. Well, the owners furnish everything, and give the men half of what they catch. There is a general charge for the bait and ice, which comes out of the whole stock.

Q. The owners furnish everything. Will you name what they furnish? They furnish the ship, do they?—A. Yes; the owners own the vessel and fit her out. They put everything aboard—provisions and gear and everything—with the exception of bait and ice, perhaps.

Q. Do they provision the captain and crew for the summer?—A. Certainly.

Q. Then, has the vessel all the material, gear, provisions, and crew for the summer?—A. Yes.

Q. And then the fish caught are divided?—A. The owners have one half and the crew the other.

Q. And does the captain get any particular amount?—A. He gets a percentage of the stock.

Q. Prior to the division?—A. Yes, sir.

Q. Is that the general mode of prosecuting the Bank fishery, not only in your port of Gloucester, but in other ports of America?—A. I don't understand you.

Q. Is that the general mode of prosecuting the fishery, that which you have described as being the practice in Gloucester?—A. O, well, not; not generally. They fit vessels differently.

Q. But as regards the division of the voyage, as regards wages?—A. Well, some of them hire their crews, and some of them fit on a day.

ferent lay altogether, which I don't know about. I never understood myself much about it.

Q. Then you cannot speak of any other ports except Gloucester?—A. Yes; there are some others that fit just about as they do in Gloucester, the same lay that we do. They used to, and I guess they haven't altered it.

Q. The captain and crew are always interested in the result of the voyage?—A. Yes, sir.

Q. In other words, the owners, the captain, and the crew are copartners in the transaction. Well, now, when you went to the cod fishery yourself, what year was that; I forget?—A. Well, I went from 1829 to about 1845.

Q. During those years, was it carried on upon similar terms, or were you paid wages?—A. O, well, we fitted our vessel on halves, generally.

Q. Now, at that time did you fish from the deck or in dories?—A. We fished from the deck of the vessel.

Q. Did the other bankers fish in the same way, from the deck?—A. I think they did generally. I don't know any that fished with trawls at that time.

Q. Dories were not in use then?—A. They didn't fish from small boats at all.

Q. When was the system of fishing from small boats on the Banks introduced—about what time?—A. Well, I don't know exactly what time. I haven't fitted any, and I don't think we have fitted but very few trawlers more than perhaps seven or eight years ago. We fitted some before that time, but we didn't fit them generally with trawls before that.

Q. I understand you to say that trawl fishing was introduced among the Gloucester vessels about eight or nine years ago?—A. I think so.

Q. When was the system of fishing from dories, instead of from the decks of the vessels, introduced?—A. Well, we have never used dories before we used trawls.

Q. That is, you personally?—A. Not out of Gloucester I am speaking of.

Q. Well, from other ports are you aware when the system of fishing from dories was introduced?—A. I think they did. They fished from dories with hand-lines before that time, from Provincetown and other ports.

Q. Well, now, were the crews that fished from the decks of the vessels and those who fished from dories were they all participators in the voyage—in the result—in the same manner in which you have described the captain and crew of your present trawling vessels?—A. O, they didn't change the lay not on account of fishing in a different way.

Q. As a matter of fact, then, there have never been distinct wages paid for the season or by the month to the captain or the crew of fishing vessels upon the Banks. There have never been distinct wages, but they have always depended as regards remuneration on the result?—A. O, yes, sir; there are people that fit their vessels in different ways, perhaps; and I don't know but what there may be some exceptions with regard to fitting. In fact, I have known men who hired all their crews, captains and all. I am certain about that, but it is not the general practice out of Gloucester, but I think it has been out of some other ports.

Q. You know of no case, at all events, where the crew and captain have been hired at a distinct wage of so much a month?—A. No. I don't know as I can name any particular vessels. I know it has been

done. We always understand it is so in one or two places in the State of Maine where they always hire the crew.

Q. What places are they?—A. I think there is a town somewhere near Mount Desert, I don't know exactly where it is located.

Q. Do you know yourself of any instance in which the captain and crew of a vessel have been hired at a distinct wage?—A. No, I don't know as I do; I don't think I do.

Q. Well, since about four or five years ago you have had some vessels fishing upon the Banks, and you have generally spoken as to the results of their voyages. Have you got their accounts here with you?—A. No, not the scrap of a pen of anything.

Q. Can you give us the results of their voyages?—A. I cannot exactly. I know some of them made very poor voyages.

Q. But you cannot state the particulars of any one of them?—A. No.

Q. Now, I think you said that some that were fishing with salt bait made superior voyages to those using fresh bait from the coast of Newfoundland, didn't you?—A. I think I did.

Q. Now can you give me the results of any one of those vessels that fished with salt bait alone?—A. No, sir; I cannot give you the result of any voyage whatever, not exactly.

Q. You are not then prepared to give me any particulars with regard to any voyages made by your vessels during the last four or five years?—A. Not anything at all.

Q. I think you said that the captains and crews of your vessels exhibited a strong desire to go into harbors instead of remaining out upon the Banks fishing?—A. They go in.

Q. And they remain there quite an unnecessary time, I think you said?—A. I think they may, some of them.

Q. You have given them instructions not to go into the harbors after bait?—A. I have, in some cases.

Q. When did you give them instructions?—A. Previous to the vessels going to sea, certainly.

Q. When did you first give such instructions? When did you first give instructions to captains of your vessels not to go to Newfoundland for bait?—A. O, at different times within the last two or three years.

Q. Did you give those instructions in writing?—A. Not at all.

Q. When did you give them; what time of the year?—A. Previous to the vessels going to sea.

Q. Then, previous to your vessels going to the Grand Bank fishing for the last two or three years, you have given them instructions not to go into Newfoundland for bait?—A. In some cases I have.

Q. Name them, will you; the men you have told?—A. No; I cannot remember names. I could not tell the men's names that go in those vessels, one or two of them.

Q. You cannot tell the names of the captains of your own vessels?—A. Not all of them.

Q. Have they carried out these instructions or not?—A. Very seldom they do.

Q. Did you threaten them that if they didn't carry them out you would discharge them?—A. I could not discharge them before the vessels came home.

Q. Did you threaten them you would not let them go another year if they didn't carry out your instructions?—A. I don't do that sort of thing. When a man has been in my employ, if I don't want him any longer, I discharge him.

Q. Have you discharged any for not carrying out these instructions?—A. I have discharged men frequently.

Q. Have you for not carrying out these instructions?—A. I always have other reasons; different reasons. I do not generally discharge a man for one fault.

Q. You would not discharge a man for one fault, be it ever so gross?—A. Unless it was a very bad fault I would not.

Q. Then you don't consider it a very bad fault to go into Newfoundland for bait, do you?—A. I should not consider it a fault at all if the captain used his best judgment.

Q. Well, what would you consider his best judgment to be? Give us an illustration of what you consider an exercise of good judgment.—A. That would be according to the ability of the man.

Q. Yes. Give an instance, now, of a banker fishing on the Grand Bank, and going into the Newfoundland coast for bait. Under what circumstances would he exercise a wholesome and sound judgment?—

A. I don't know that I exactly understand your question, sir.

Q. Well, you say that if a man going in there for bait exercised a sound judgment, you would approve of it.—A. I should approve of his using his best judgment.

Q. Very good. Then, if a captain of a vessel on the Banks went in, and he was a man of good judgment, you would say that you approved of his conduct?—A. O, certainly, if he attended rightly to his business and got his bait, and got out on the ground as soon as he could conveniently. I should think a man might do that and use his best judgment too.

Q. Now, in your instructions to your captains, you say you instruct them not to go there for bait. Is that the case, or is it the case that you told those captains to exercise their best judgment as to whether they should go there or not?—A. O, my instructions would be according to who he was and what abilities he had. Of course, I have men in my employ that I would not give any instructions to whatever. I would let them use their judgment.

Q. And would be perfectly satisfied if they exercised their judgment in favor of going in to Newfoundland for bait? You would be perfectly satisfied that they had done what was for the best?—A. O, I don't express any dissatisfaction generally, unless I have occasion to.

Q. Have you ever expressed any dissatisfaction to any one of your captains because he went in for bait?—A. O, I have expressed a good deal of dissatisfaction on account of their waste of time.

Q. Answer the question I put. Have you ever expressed any dissatisfaction because they went in for bait?—A. Not if they have attended to their business and got their bait as soon as they could and gone out on the ground again, I did not.

Q. Well, now, Mr. Maddocks, I would desire very much that you should answer the question straightforwardly. Have you ever expressed dissatisfaction to a captain of either of your vessels because he went in to Newfoundland for bait? Have you been dissatisfied upon that ground alone with his conduct, because he went in for bait? I am not speaking of losing time, or anything of that sort, but simply because he went in there for bait?—A. Well, I would not be likely to, if he went in and got bait, and didn't waste time, of course.

Q. If everything went straight, you would not be dissatisfied, of course; but can you pledge your oath that you have ever expressed to either of your captains dissatisfaction with his conduct, because he went into Newfoundland for bait?—A. I don't generally express dissatisfaction

tion. I am not that sort of a man. If I am not satisfied with a man, I turn him out of my employ.

Q. Then do I take that you have never expressed dissatisfaction with any of your captains because he has done this?—A. I don't recollect that I have.

Q. Now, then, you are only dissatisfied when they remain what you consider an unreasonable time?—A. O, that is not satisfactory to have a vessel lying in the harbor.

Q. Then you are only dissatisfied when they remain too long a time?—A. I am never dissatisfied when they are doing their best and trying.

Q. Now, are not the captain and crew equally interested with the owner in getting bait and being off as quick as possible?—A. Well, certainly they are interested in the voyage, of course.

Q. Then when you would lead the Commission to suppose that the captain and the crew were anxious to remain in harbors, neglecting their duties on the Banks, to the prejudice of the owners, they would be equally injuring themselves as well as the owners?—A. Well, there are a great many of them that don't care anything about that.

Q. They are completely lost, then, the captain and crew, to self-interest?—A. All the captains and crews of my vessels are not all alike.

Q. You won't say they are completely lost to self-interest?—(No answer.)

Question repeated.—A. I won't say that they are all lost to self-interest. They are not altogether unmindful. I should hope not.

Q. They have as deep an interest in the voyage as the owners; they have a one-half interest?—(No answer.)

Q. Are they not as deeply interested in the voyage as the owners?—A. Of course they have an interest in the voyage, or they would not be there.

Q. Well, now, are you aware as to the effect upon the fishing ground of a large number of vessels fishing with trawls and covering a large space of ground with trawls baited; has it the effect of attracting and keeping fish upon the ground?—A. Well, there are various opinions about it.

Q. Now, as a fisherman, do you consider that several vessels, a large number of vessels, fishing upon the Banks, all of them with trawls, would have the effect of attracting and keeping the fish upon the grounds—the spreading of such a large amount of bait? It has been asserted here that it has the effect of keeping the fish from coming into the inshore. Do you concur in that opinion? I think it was Mr. Atwood that said so.—A. Well, it has a tendency to thin off the fish, to catch them up, right in certain localities.

Q. It has the effect of attracting fish?—A. Making the fish scarcer right in the locality where they set their trawls.

Q. In other words, it attracts the fish to the locality of the trawls themselves—the large quantity of bait upon those trawls?—A. I don't think that it tolls the fish much. I don't think it tolls them from a long distance.

Q. Well, I think I asked you before and you answered that you can give no distinct account of the results of any fishing voyages upon the Grand Bank?—A. No; I cannot.

No. 21.

ANDREW LEIGHTON, of Gloucester, fisherman, and member of a fishing-firm, called on behalf of the Government of the United States, sworn and examined.

By Mr. Foster :

Question. How old are you ?—Answer. Fifty-five years.

Q. When were you first skipper of a mackerel vessel in the Gulf of St. Lawrence ?—A. In 1847.

Q. What was the vessel ?—A. The Alabama.

Q. What was her tonnage ?—A. About 70 tons old measurement—55 new measurement, I guess.

Q. Now, how many fish did you catch that trip, and where were they caught ?—A. 260 barrels at Bird Rocks and Biron Island.

Q. Then what did you do ?—A. I went home and went to the Georges

Q. What for there ?—A. Cod-fishing.

Q. The next year, '48, what vessel ?—A. The Rio del Norte.

Q. Did you make more than one trip for mackerel ?—A. No.

Q. How many barrels did you get and where ?—A. 350 barrels, at the same places, at the Bird Rocks and Biron Island.

Q. And the rest of that year what were you doing ?—A. Cod-fishing on the Georges.

Q. In 1849 what did you do ?—A. I went to the Georges fishing all the year.

Q. In 1850 what did you do ?—A. I was to the Georges that year.

Q. In 1851 were you to the Bay of St. Lawrence ?—A. I was in the same vessel to the bay in the bay.

Q. That was the year of the great gale ?—A. Yes.

Q. What did you catch ?—A. 350 barrels.

Q. Where were they taken ?—A. We got them all at the Magdalens—280 barrels before the gale; and I caught at the Margaree Islands after the gale enough to make 350 barrels.

Q. At Margaree Islands did you catch them inshore or out ?—A. I hove to off shore; and the wind was westward, and we drifted down inside of the island, and caught enough to finish the trip at anchor there, between Margaree Island and the mainland.

Q. In 1852 what were you doing ?—A. I went to the Georges until July, and then went a trip on the shore, and came into the bay in the last of September.

Q. How many fish did you catch on the United States coast that year ?—A. 110 barrels.

Q. What vessel were you in in 1851 ?—A. The Rio del Norte.

Q. These 110 barrels you caught on the United States coast, whereabouts were they taken ?—A. They were taken down off Mount Desert, along the coast.

Q. Then what did you do with them ?—A. Went home and packed them out and sold them, and came to the bay.

Q. About what time did you come to the bay ?—A. I think about the middle of September I went up there.

Q. How many mackerel did you catch, and where were they taken ?—A. In the bay. I made 130 barrels, and got ashore in Souris and lost my vessel.

Q. Was that all you had taken before the vessel was lost ?—A. Yes.

Q. Now, where were these taken, inshore or offshore ?—A. From three or four miles to seven or eight miles off Magdalen and along there.

Q. Did you fish in 1852 any part of your trip in the gulf within three miles?—A. No; nowhere, without it was down at Margaree Island and along there. There was a cutter there, and a steamer and boat, and the captain, Laybold was his name, he used to run his three miles down, and we always fished outside of that.

Q. You say there was a steamer and gunboat and barge?—A. No, a hermaphrodite brig—the brig Boston.

Q. Now, do you remember anything the captain did—Captain Laybold—about showing the line within which the United States vessels were prohibited from fishing?—A. He told me he would run a three mile line down every day.

Q. Did he do it?—A. I suppose he did. We always fished outside.

Q. Did you see the line run?—A. I used to see him as he went down and when he came back again at night.

Q. Now, was a man by the name of Chiverie on board then?—A. Yes.

Q. He was one of your men? How old was he?—A. Somewhere about eighteen years old.

Q. I showed you the testimony he gave with reference to that trip in your vessel, didn't I?—A. Yes.

Q. Is it correct or not?—A. No.

Q. In the first place, with reference to the number of barrels of mackerel taken in the Rio del Norte, did you take more than 130 barrels?—A. No.

Q. In the next place, did you say anything about going to catch mackerel anywhere?—A. No.

Q. Did you go inside of the three mile line, as pointed out to you by Captain Laybold?—A. No; not to catch any mackerel. I went in to anchor.

Q. Did you own part of your vessel that year?—A. Half of it.

Q. That was lost?—A. Yes.

Q. Well, something was said by Captain Chiverie about your making an attempt to hire a British vessel, after you had lost your own, in order to fish in there; was there any attempt of that kind?—A. No; the fishing was about over; the gale of wind broke it up.

Q. Your vessel was lost when?—A. The 15th October.

Q. When your vessel was broken up, what did you do?—A. I went home.

Q. What became of the vessel?—A. She was sold.

Q. Was there any of the underwriters or their agents there?—A. Yes.

Q. Who were they?—A. Tarr and Burnham.

Q. In 1853, what vessel were you in; that is, the next year after you lost your vessel?—A. I was in the Snowsquall.

Q. Did you go to the bay that year?—A. Yes.

Q. Where did you fish, and what did you take?—A. I fished at the Magdalens and Bank Orphan some, and on the West Shore, just in sight of land.

Q. When you speak of fishing off the West Shore, just in sight of land, what land do you mean?—A. Miscou; that is, on the New Brunswick shore.

Q. How many barrels of mackerel did you take there?—A. Well, that trip we got 350 barrels.

Q. Did you make more than one trip in 1853 in the Snowsquall?—A. No.

Q. Did you take any portion of these mackerel within three miles of the shore?—A. No.

Q. In 1854 what vessel were you in?—A. The same vessel.

Q. More than one trip?—A. Yes, two trips.

Q. How many did you get the first, and how many the second trip?

—A. The first trip we got 350 barrels, I believe, and the second trip 200.

Q. Where were they taken?—A. The first trip was taken at the Magdalens, and the second I got about 100 barrels inshore between Cheticamp and Margaree Island, Mabou, and along there.

Q. Did you take any of them within three miles?—A. Yes, 100 barrels, I guess.

Q. Where?—A. At Margaree, and right along shore there.

Q. In 1855 what schooner were you in?—A. The Montezuma, two trips.

Q. How many barrels each trip?—A. 200 barrels each trip. She was a small schooner, and that was all she would carry.

Q. Where was the first trip, and where was the second trip taken?—A. Taken at the Magdalens, the first trip, and along West Shore and Bradley Bank—on the West Shore, just in sight of land. The second trip at the Magdalens. Then I went home and went fishing on our own shore.

Q. In 1856 you were again in the same vessel?—A. Yes, three trips.

Q. How many barrels did you get?—A. 260 each of the first two trips, and the last trip 200.

Q. Where did you get the first, second, and third trips?—A. I got them, one trip at Bradley and West Shore, the other at Magdalens. We got about 75 or 100 barrels inshore at Margaree Island, in the fall, late.

Q. That was a larger number of barrels than you had taken before?—A. Yes.

Q. Did you go home after each trip?—A. I went home each trip.

Q. Were those large or small mackerel?—A. Small mackerel.

Q. It was not a very profitable trip on that account?—A. No, I didn't make much of a year's work; they sold cheap.

Q. In 1857 what did you do?—A. I was in the Queen of Clippers.

Q. Where did you fish?—A. At the Magdalens.

Q. How many trips?—A. Two; the first at the Magdalens.

Q. How many barrels did you get?—A. I think the first trip we got 350, and the second 300.

Q. Where did you say the second was taken?—A. Taken around the Magdalens.

Q. Take the following year, 1858?—A. I was in the same schooner, the Queen of Clippers. I got one trip at the Magdalens of 350 barrels, then I got 200 barrels in the fall of the year. I got about 50 barrels, I think, at Cape North Bay.

Q. Where did you get the rest?—A. Around Margaree Islands.

Q. Then your second trip that year was largely taken inshore, was it?—A. Yes. I only got 200 barrels; I didn't make the whole trip. It was blowy weather, and there was no chance.

Q. What proportion of the second trip was taken inshore?—A. About 100 barrels. I got 100 barrels at the Magdalens, and then came over and got 100 barrels more. The weather was bad, and there was no chance.

Q. In 1859 what vessel were you in?—A. The Rattler.

Q. Did that belong to you?—A. Yes, sir.

Q. Wholly?—A. Yes.

Q. Was it a new vessel built for you?—A. Yes.

Q. Were you in it a number of years?—A. Yes.

Q. Now, in the year 1859, being the first year in the Rattler, did you go into the bay, and at what time of the year?—A. I came in July; I guess about the 10th or 15th of July. I got into the bay the 10th of August. I left home after the 4th of July.

Q. How many barrels did you take, and where?—A. I got 400 barrels that year. The mackerel were scarce. I got them on Bank Orphan and the Magdalens.

Q. In the first year you were in the Rattler did you take any inshore?—A. No.

Q. In 1860 you were in the same vessel. How many trips did you make, and where did you catch your fish?—A. I made one trip, I think, and got 500 barrels. I got them around the Magdalens, most of them around Bird Rocks.

Q. In 1861 you were in the same vessel?—A. Yes.

Q. How many trips did you make?—A. Two trips, I think.

Q. How many barrels did you catch?—A. 500 barrels each trip.

Q. That is the third year in the Rattler?—A. Yes.

Q. Now, where were those taken the first trip and the second?—A. They were taken at the Magdalen and Bank Orphan.

Q. Any inshore that year?—A. No.

Q. In 1862 were you in the same vessel still?—A. Yes.

Q. How many trips did you make then?—A. Two trips. I got, I think, 500 barrels each trip.

Q. Where?—A. I got them part on Bank Orphan and the rest at the Magdalens.

Q. In 1863?—A. I got one trip on the Magdalens, and went right back again and got about 150 barrels, and went to Sydney and got enough to make 300 barrels.

Q. Your first trip was 500 barrels at the Magdalens and your second 300 barrels, half of them at the Magdalens and half at Sydney. When you fished off Sydney was it inshore or out?—A. It was inshore.

Q. Then in 1863 you took 150 barrels inshore near Sydney?—A. Yes.

Q. Were you in the Rattler another year?—A. Yes; 1864.

Q. What did you do in 1864?—A. I made three trips.

Q. How many barrels did you get in the bay?—A. 1,515 barrels.

Q. That you would be likely to remember. Now, where did you take the first trip that year?—A. I got them on Orphan and the Magdalens the first trip, and the second trip at the Magdalens.

Q. And the third trip?—A. I got about 300 barrels up on Fisherman's Bank, and ran down to Margaree and got 215 barrels there in two days, and went home.

Q. How near inshore did you get them at Margaree?—A. Right inshore. It is about a mile or a mile and a half off.

Q. Was that the last trip in the Rattler?—A. Yes.

Q. Now, what did you do with the first and second trips that year?—A. I left them at Mr. Hartley's till I went home in the fall.

Q. Where is Hartley?—A. At Pirate Cove, Causeway.

Q. Did you take them all home in the autumn or have some of them sent?—A. I chartered a schooner to take them home when I went myself.

Q. What did it cost you by the schooner?—A. Fifty cents a barrel.

Q. What did the steamers charge that year?—A. I think a dollar.

Q. Was that currency or gold?—A. Well, I don't know. I didn't send by steamer.

Q. What did you pay in ?—A. Currency. It was an American vessel.

Q. That ends the Rattler ?—A. Yes.

Q. In 1865 what vessel were you in ?—A. The Blue Jacket.

Q. What did you do that year ?—A. I got 670 barrels the first trip on what they call Pigeon Hill.

Q. Was that within three miles or not ?—A. No ; we just saw the tops of the hills.

Q. What did you do with the 670 barrels ?—A. Shipped them in the steamer.

Q. From where ?—A. From Canseau.

Q. What did you pay ?—A. \$1.

Q. Gold or currency ?—A. Currency.

Q. The freight was paid in Boston ?—A. Yes.

Q. Then your second trip in 1865, how many did you take ?—A. I got 400 barrels.

Q. Where did you take them ?—A. About half-way between Magdalens and East Point.

Q. All of them ?—A. Yes ; we drifted down about that direction.

Q. Did you take any of the second trip inshore that year ?—A. No.

Q. How late were you that year, if you remember ?—A. I went out of the bay pretty early.

Q. In 1866 what vessel were you in ?—A. The Wild Fire.

Q. What was her tonnage ?—A. She was 108 tons, new tonnage.

Q. Did you take a license that year ?—A. I think I had bought a license in Georgetown, but I have looked over the list and could not see that I had paid for any.

Mr. DAVIES. The names of the parties are not entered there.

Q. You thought you had bought a license ?—A. Yes ; but I could not see my name. I thought I had paid for it. I was a sick man, and put inshore, and I thought I bought a license.

Q. What were you in in 1866 ?—1866, I believe, is the last year you were fishing. Now, how many fish did you take that year ?—A. The first trip I got 600 barrels.

Q. What did you do with them ?—A. I put them aboard a steamer at Plaister Cove.

Q. What did it cost you to send them home ?—A. \$1.

Q. Where were these 600 barrels taken ?—A. On Magdalens, Bird Rocks, and all around the Magdalens, I fished that year. The mackerel were scarce.

Q. How many did you take the second trip that year ?—A. 360 barrels.

Q. Where were they taken ?—A. I got them all off shore, but I think I got about 50 or 60 barrels at Margaree Island in the fall.

Q. Those you caught at Margaree were inshore ?—A. Yes ; it was a blowy fall.

Q. About how late did you go home that fall ?—A. I went home, I guess, on the 20th October.

Q. Since then, you have not been fishing yourself ?—A. No.

Q. Now, before I ask you about your subsequent business, there is another matter I want to inquire into. There is a gentleman who seems to know about your business, and property generally, Mr. Campion. I read from his statements, page 37 of the British Testimony :

“Q. When you were four or five years in Gloucester with American vessels, did you notice whether they made such large catches when high prices prevailed, and whether the wealth of the place was greatly increased in consequence ?—A. Yes ; it was materially increased. Some

men who were poor when I went there, were owners of firms when I left.

"Q. Were they engaged in the bay fishing?—A. Captain Andrew Layton was reported to be part owner of a vessel in 1862, and when I left there he was established with seven or eight vessels with a firm.

"Q. Due to his prosecution of the Bank fishing?—A. Yes; in 1863 he had a vessel built at a cost of \$14,000. He sold her that fall at St. Peter's for the same amount of money, and he declared that he cleared in the business that year the price he paid for this vessel. Other men I also knew made money."

I hope you have been tolerably prosperous. Is that a true account of the way your money was made?—A. No, sir.

Q. What do you say about clearing \$14,000 in a year at the Magdalen?—A. I do not think all the fleet ever cleared it.

Q. Taking the business of fishing for mackerel alone, suppose that was all a man was doing, would he make a large amount of money?—A. Well, there is once in a while when they would do very well, but taking the fleet together, they didn't do anything.

Q. What else were you doing those years you were fishing for mackerel in the summer?—A. I went for herring at Newfoundland from 1866.

Q. How many years did you go?—A. I went about eight years.

Q. To what part of Newfoundland?—A. Fortune Bay.

Q. Did you go to catch or to buy?—A. To buy.

Q. Did you catch any herring there?—A. No.

Q. How did you provide for buying, with money or goods?—A. Some money and some goods.

Q. Did you freeze them yourself?—A. Yes.

Q. Did you carry any arrangements for fishing yourself for herring?

—A. No.

Q. Whom did you buy them from?—A. I bought them of the inhabitants. They caught them, and I gave them so much a barrel. That was when we first went out for frozen herring.

Q. You were one of the earliest?—A. Yes.

Q. Did you freeze them yourself?—A. Yes.

Q. On your vessel?—A. Yes; we used to build little wharves on shore and freeze some, and we would freeze the rest in the vessel.

Q. Which way did you freeze the greater part?—A. On board the vessel. When we got more herring than we could freeze on board, the inhabitants would let us freeze them there. They told us to put lumber ashore, and we fixed a little stage and froze them.

Q. In 1866 you ceased to fish and started a firm?—A. In 1867. I went to the West Indies, one year after I quit fishing.

Q. In command of a vessel?—A. Yes.

Q. The name of your firm is Layton & Co.?—A. Yes.

Q. How many vessels have you had fishing since in the firm?—A. Some years sixteen and seventeen. Most every year from fifteen or seventeen to twenty.

Q. In what branch of fishing have you been engaged?—A. Well, in most all.

Q. Name them.—A. Cod-fishing, halibuting, mackereling, herringing, everything a little.

Q. How many vessels have you usually had fishing for mackerel?—A. Well, eight, I guess, or nine.

Q. How many this year?—A. We had twelve one spell this year.

Q. The vessels did not do the same thing all the year round, of course?—A. No.

Q. How many vessels have you had come to the bay for mackerel since you organized your firm, which is ten years?—A. This year we have five; one went out and the other four are there now. We haven't heard from them since they went away.

Q. What became of the one you had there that went out?—A. She went fishing on our shores; that is the Falcon.

Q. How many did she bring from the bay?—A. One hundred and ten barrels, packed.

Q. Do you know what she has done on our coast?—A. I don't know.

Q. Now, how many vessels have you fishing this year on the American coast?—A. Well, they have all been fishing there some time of the season. They have fished there until August, and then gone into the bay. The Falcon went into the bay in July, and the other two in August. They have all been on our coast since April.

Q. How many have been in the bay for mackerel this year?—A. There are five of them have been in the bay, but ten went south mackereling, seining, and then came home. Three of them left and went into the bay, and then those other ones (two) that went to the West Indies came and went to the bay. That makes five in the bay.

Q. What has been the result of the mackerel voyages to the gulf made by your vessels since you have been in business?—A. They have done pretty poorly. One year they did very well. The next year after the year I knocked off they did very well. Since that they have been dwindling away until we have had only one there last year. They knocked off and went seining on our own coast.

Q. How many did you have the year before last?—A. I think only one. I think for the last three years they all knocked off and went seining, but that one, and she never had a seine.

Q. Now, generally, what have been the results of the mackerel vessels on the American shores since you have been in the business?—A. Well, some of our vessels have done very well. They have always paid their bills on our own shores and cleared a little more.

Q. I believe you had one particularly profitable seining voyage last year?—A. Yes.

Q. What was that?—A. We cleared \$5,000. That was the Mary Odell.

Q. How long was she doing it?—A. She began the last of April, and knocked off about the first of November.

Q. Do you remember how many trips?—A. No; we could not tell, because she ran them fresh to Boston and New York. We didn't pack any of them hardly.

Q. Now take your vessels that have gone to the Gulf of St. Lawrence this year; name them.—A. The Wild Fire, the Colonel Cook, the Rattler, the Griffin.

Q. That only makes four. The other one you gave previously?—A. The Falcon. The Griffin we don't own. She fits with us. We find her barrels and provisions.

Q. What is the tonnage of your schooners?—A. Well, the Wild Fire is 108 tons, the Rattler 82, the Colonel Cook about 66, I think, the Falcon 71.

Q. I will not bother you with details of price, because we have those in a more compact form. But generally, how many mackerel ought one of those vessels, a vessel of that size, to catch in order to make a paying voyage?—A. Well, it is all owing to the price.

Q. Would the mackerel average \$10 a barrel, cleaned and packed?—A. No, not this year.

Q. What do you think they would?—A. Well, that vessel went in late and got all fat mackerel. But this year they would not be over \$5 a barrel average. Take out \$1.75 for packing, and it doesn't leave much.

Q. Does that \$1.75 include the barrel?—A. The barrel and salt, not inspection; that is ten cents more.

Q. Well, suppose you got \$10 a barrel; I take that as higher than the average, but as it has been named here a number of times. How many barrels ought these vessels to get year in and year out, to make it a paying business?—A. To make it pay they should get 1,000 barrels to make money.

Q. Well, that is to make money for everybody, is it not?—A. Yes; that makes a little something.

Q. But take the cost of the voyage. We will say nothing about the interest on the vessel itself—how many barrels should she get?—A. Well, 500 or 600. It is according to what kind of mackerel.

Q. I was asking you to take them at \$10. You thought that too high?—A. Well, taking \$10, if they got 400 barrels the bills would be about \$2,000 to run a vessel like that for four months. The other \$2,000 would go to the captain and the crew.

Q. Then before the owners could get anything they should run up above \$4,000?—A. About that. It would be safe to reckon that way.

Q. Now I want to ask you one or two more things about your own trips. On page 193 of the British Evidence we have the statement of James Mackay. Do you know him?—A. No, sir.

Q. You owned the Colonel Cook?—A. I owned the third part of her.

Q. On page 193 of the Evidence it is stated that she was commanded by George Bass in 1872. Do you remember how many mackerel the Colonel Cook took, when Captain Bass commanded her in 1872?—A. I think he sent home 200 barrels the first time. I won't be sure, though.

Q. The second?—A. 160 I think. It may be wrong; I could not say for certain. I think that is it.

Q. You have nothing by which to correct your recollection?—A. No.

Q. Now, Mr. James Mackay says that 400 barrels were obtained each trip that year, as I understood it?—A. I don't know, I never made any money.

Q. Do you know whether there was 400 barrels each trip or not?—A. No.

Q. That is not correct?—A. He is mistaken. That is more than she ever got since she was built.

Mr. DAVIES. He didn't say 400 each trip.

Mr. FOSTER. Your construction is that the witness only meant to say 400 barrels for the two trips. It reads as 400 barrels for the second trip.

Mr. DAVIES. He only mentions the one figure, 400 barrels.

By Mr. Foster:

Q. Now, here is the statement of a witness by the name of McDonald, that you got 1,600 barrels of mackerel one year in the Rattler. You say you got 1,515 barrels?—A. Yes.

Q. Did you have anything to do with the schooner Allen Forester?—A. Yes, I and others chartered a quarter of her.

Q. William McDonald's statement is, that he and you and two others were interested in that vessel. Was that right?—A. No.

Q. His statement is (page 310) that he chartered her for the trip, and after paying \$1,000 for the charter, and paying him as captain 3 per

cent. commission, which came out of the vessel's half, there was \$1,050 for the four who chartered her. Did you get your share of that?—A. I don't think I did get as much as that; I might have. It don't seem as though I did. I could not say that I did not. I thought it was not so much as that.

Q. On page 396, we seem to hear of you again from somebody. Ronald McDonald says he was with you in 1859 or 1860, I believe, in the Rattler. Do you remember him?—A. I don't remember him. He might have been with me; many men have, whose names I don't remember.

Q. What are the prospects, if you know, of the mackerel fishing this year?—A. Well, I don't know; so far as I can hear, they are pretty poor. Our vessels have done very badly.

Q. Now, suppose the mackerel were to be very plenty from this time on, is there time to make a good result?—A. No; it is too late now. It is coming on blowy weather; and they could not do much. There might be, perhaps, some few days when they could do something.

Q. When you were in the habit of fishing, was Magdalen Islands considered safe or dangerous?—A. It was the safest place in the bay.

Q. Why?—A. You can run around it any time, day or night, sounding with the lead, no matter what kind of weather.

Q. Can you estimate the largest number of vessels from Gloucester that ever went to the gulf for mackerel?—A. I should not think over 275, or 300 at the most. There used only to be in those times four or five hundred sail altogether; and I don't think a great many more than half of them went into the bay. I think there are now about 520, or thereabouts, boats and all.

Q. If you were coming to the gulf to fish for mackerel, what value would you attach to the right of fishing inshore? Explain your opinion on that point.—A. Well, some years—I have seen two or three years—I should like to have fished inshore; when the mackerel was inshore. A heavy northeast wind late in the fall drives them all in, around Margaree Island, maybe, and a man might catch a trip of mackerel, if he could not get them anywhere else, the last thing in the fall. That is about all the advantage. In good weather, I should not care anything about it; but late in the fall, the last thing, I have caught 215 barrels there in two days, and I suppose I could have caught 500 if I had a place for them. I never saw but two years like that. The year of the gale, in 1851, was just such a year; but I was full when I got there.

By Sir Alexander Galt:

Q. Are they good mackerel?—A. Nice mackerel.

By Mr. Foster:

Q. Which would you rather have, the right to fish inshore and have the British mackerel come in free, or be excluded and have the old duty on it?—A. I should rather have the old duty. It is not altogether on account of the mackerel, but the herring.

Q. Tell me about that.—A. If there were a duty, we could have the whole trade of selling them in Boston, but when there is no duty the English vessel can carry them cheaper than we can.

Q. The old duty was a dollar a barrel?—A. Yes; I think so. We have lost that trade.

Q. I notice that in 1873 the Colonel Cook, of Gloucester, is stated by the collector at Port Mulgrave, under the head of June 13, to have been twice through Canso—to have made two trips; to have taken on the first trip 380 barrels, and on the second trip 320 barrels of mackerel.

That was one of your vessels; did she ever do that?—A. That is more than she ever carried. She never fitted for over 350 barrels.

Q. Do you recollect what she did?—A. I think that is the time she landed 200-odd barrels.

Q. I am not talking of the Colonel Cook when you were in her in 1863, but as to the quantity she caught in 1873?—A. I was never in the Colonel Cook.

Q. In 1873 you were interested in her; do you recollect what mackerel she took?—A. She did not take any such quantity as that.

Q. Not 700 barrels in Bay St. Lawrence?—A. No; because that is more than she can carry.

Q. She did not make two trips and catch 380 and 320 barrels?—A. She never carried at the most over 350 barrels; I think she did not.

Q. Do you recollect what her catch was that year?—A. I don't recollect.

Q. Did she make any money?—A. She never made any money since she was built, hardly. I don't think she made any that year.

Q. If the date June 13 was the date given as when she had got two trips, that could not be correct, as no vessel could ever make two trips before June 13 in Bay St. Lawrence?—A. She could not have gone to till June 15.

Q. I am now reading from page 26, Appendix X: "Return of United States mackerel-fishing vessels and their catch in 1873, as reckoned at Port Mulgrave, N. S., by the collector of customs at that port." Under June 13, there appears, "Colonel Cook, Gloucester, 380, 320, total 700 barrels."—A. He has made a mistake. That is when she went into the bay.

Q. Did she get 700 barrels that year?—A. I don't think so. She never got that many any year.

By Mr. Davies:

Q. Have you any recollection of the catches made by your vessel since you gave up fishing yourself?—A. I know pretty well what they have made. The bay vessels have made no money.

Q. Have you a good recollection of the catches they made?—A. No; I don't recollect. I could not tell you the exact quantity, but they made very poor trips.

Q. In 1873 you owned the Wildfire?—A. Yes.

Q. Give me the catch you made that year.—A. I don't recollect what we did.

Q. Would you be prepared to dispute a return made by the collector of customs at Port Mulgrave as to what her catch was?—A. I could tell something near it.

Q. You don't recollect at the present time what it was?—A. I think it was something like 600 barrels; somewhere between 500 and 600.

Q. He returns 625 barrels.—A. I guess that is correct.

Q. Was the Phoenix your vessel?—A. No.

Q. What size vessel is Colonel Cook?—A. About 66 tons.

Q. What is her capacity?—A. When she fits for the bay, she fits for about 350 barrels.

Q. And will you undertake to swear that she did not get 700 barrels in 1873? Have you any recollection of what her catch was?—A. I would not want to swear to it, but I am pretty sure she did not get that.

Q. Have you a sufficient recollection of it?—A. I have not a sufficient recollection of it.

Q. And if you have not, can you say that the number was incorrect ?—
A. It is not correct about going out at that time.

Q. I think the date stands for when she was reported as entering the gulf ?—A. I think so.

Q. Putting the date aside, I ask you if you would undertake to dispute the correctness of this return, if you have no recollection of the catch yourself ?—A. No more than I packed the mackerel.

Q. You don't wish to contradict this return ?—A. No.

Q. You think, I understood you to say, that the fishing this year is not very good ?—A. Yes.

Q. Have you been in the gulf yourself ?—A. No.

Q. You don't know it from personal knowledge ?—A. No more than from vessels that have come home.

Q. Have you a list of the vessels that have come home and reported at your port ?—A. I have got no list.

Q. Could you state the names of some vessels that have returned, in order to show on what you base your statement ?—A. I could tell you some vessels that have come home with small fares. The Vulcan had a small fare.

Q. What time did she come to the bay ?—A. She came out of the bay about the last of August ; somewhere about that time.

Q. What is her size ?—A. 71 tons.

Q. She had only 110 barrels ?—A. She packed 110. The William G. Baker came home. I believe she got nothing hardly in the bay.

Q. Is she one of your vessels ?—A. No ; she belongs to the next wharf.

Q. Can you speak of her catch from personal knowledge ?—A. The owner told me she did not have anything.

Q. I have got here a list of vessels which have returned to Gloucester. On 15th August : David F. Low, 190 barrels of mackerel. Do you know her ?—A. Yes.

Q. Do you call that very bad ?—A. No.

Q. August 16. J. F. Clarke, 240 barrels. Do you know her ?—A. Yes.

Q. August 17. Hyperion, 240 barrels. Do you know her ?—A. Yes.

Q. August 16. Gertie Lewis, 135 barrels. Is that correct ?—A. Yes.

Q. On the same day, Martha C., 250 barrels. Is that correct ?—A. Yes.

Q. August 20. George S. Low, 230 first trip and 120 second—altogether 350 barrels. Is that correct ?—A. Yes. I know those vessels, and I know they got those trips ; I know it because the owners told me.

Q. August 25. Fred Gerring, junior, 230 barrels ; refitted and made second trip. Have you received information that she has made a second trip ?—A. Yes.

Q. Eastern Queen. She has not got round, I believe, on her second trip ; perhaps you can give the numbers ?—A. I don't know about the second trip. After the first trip she came home with, I think, some 200 odd barrels—I think about 240 or 250.

Q. She has made two trips ?—A. I never heard that she had made more than one.

Q. She has not yet completed her second ?—A. She is on it.

Q. August 30. Marion Grimes, 150 barrels. Do you know her ?—A. Yes.

Q. Ocean King, 120 barrels ; put in for repairs. Is that correct ?—A. Yes.

Q. John Wesley, 200 barrels ?—A. The John Wesley bought the mackerel and did not catch it. The captain told me he bought it from boats

at Port Hood, and traded for them. He came through Canso and reported he had that many. He is Captain Pool.

Q. September 12. B. F. Somes, 160 barrels, refitted for second trip?—A. Yes.

Q. September 13. Harvest Home, 235 barrels, refitted for second trip?—A. Yes.

Q. September 13. Etta Gott, 225 barrels, refitted for second trip?—A. Yes.

Q. September 14. George B. Loring, 250 barrels, refitted for second trip?—A. Yes.

Q. September 18. S. L. Mayo, 150 barrels, refitted for second trip?—A. Yes. You have skipped those vessels which have not got any.

Q. I am reading from the return.—A. Is the Ellen Crosby mentioned there? That is one which did not get anything.

Mr. FOSTER. What is the list you are reading from?

Mr. DAVIES. From a return of vessels reported from the Gut of Canso.

Q. I understood you to say that you knew those vessels, and that the quantities were correct?—A. Yes, as far as what the owners told me.

Q. The Cape Ann Advertiser of September 20 says:

Our correspondent at Port Mulgrave writes under the date of last Monday as follows: "Since my last there have been several arrivals from the bay with discouraging news; but lately the news has been more encouraging. The following arrivals are reported: *Schooner*, Etta Gott, 226 bbls. mackerel; *Harvest Home*, 235; *George B. Loring*, 250; *George S. Low*, two trips, 350; *Benjamin F. Somes*, 160; *Idella Small*, of Deer Isle, 153. The mackerel are large and fat. The *Harvest Home* and *George B. Loring* took their loads in Chaleur Bay; the *Etta Gott* at Bird Rock. Most of the fleet were in Cape St. George Bay on Saturday, doing well; the *George S. Low* took 45 wash barrels that day.

WITNESS. Those are about ten or fifteen vessels out of seventy-five sail.

Q. There are 75 sail from Gloucester in the bay?—A. Yes; that have been there this year.

Q. I see you have given the *Vulcan's* catch as a poor one; she returned early in August?—A. Some time in August.

Q. You don't expect a vessel to make a successful trip that early?—A. She was gone long enough to make a good trip.

Q. Have you heard lately, within the last fortnight, what catches are made by your vessels in the bay?—A. No.

Q. You would not undertake, then, to say whether the catches are good or not?—A. No.

Q. When the question in regard to imposing a duty on Canadian fish was put to you, you seemed to have a pretty strong idea on it; you would prefer to have that duty imposed, would you?—A. Yes.

Q. In regard to herring, you want to have the herring trade transferred from British to American bottoms, and if a duty was imposed, it would drive British vessels out of the trade?—A. They could not carry them, because the duty would be about as much as the herring is worth.

Q. Has there ever been a duty on fresh herring?—A. There are salt herring we get at the Magdalen Islands in spring.

Q. Are they salt herring?—A. We never got any fresh herring there. We get our frozen herring at Newfoundland, in Fortune Bay.

Q. Would you suggest that a duty should be placed on fresh herring?—A. No; there never was a duty on fresh herring.

Q. But you would propose to reimpose the old duty?—A. Yes.

Q. In regard to mackerel, leaving herring out, would you prefer a duty on mackerel?—A. Yes.

Q. You speak as a fisherman?—A. Yes.

Q. Why would you prefer a duty on mackerel?—A. Our mackerel would fetch that much more a barrel; we lose that, you know.

Q. By the duty coming off?—A. Yes; the fishermen lose it; the government does not lose it.

Q. And the people who eat the fish gain it?—A. Yes.

Q. And if you were to speak to a man whose business was consuming mackerel, you would get an opinion adverse to a duty?—A. Yes.

Q. You would not object, I suppose, to run the duty up a little higher—how would that suit the fishermen?—A. I think that is about right.

Q. When asked by Mr. Foster as to how many barrels of mackerel should be taken by a vessel to pay well, I understood you to say that if mackerel brought \$10 a barrel, the number should be 1,000 barrels?—A. No; 400 barrels.

Q. Four hundred barrels would make a paying voyage?—A. It would make the vessel pay her bills.

Q. A vessel of what size?—A. A 75 or 100 ton vessel. It would cost about \$2,000 to run her.

Q. You say it would cost \$2,000 to run the vessel; what would become of the other \$2,000?—A. The crew get half. They are not paid by wages, but on shares. If a man catches 10 barrels he has half of those, after expenses are taken out, and so with a man who catches 5 barrels.

Q. A vessel of 75 or 100 tons with the fishermen going on half line would, if it got 400 barrels at \$10 a barrel, pay its bills. Would it leave a fair recompense to the owners?—A. It would not leave much. Some men might run a vessel and leave something, and others would leave it in debt.

Q. You have made some pretty successful trips in your time?—A. Well, I have got many fish, but they never fetched a great price.

Q. In regard to the year when you made the wonderful voyage, Mr. Foster read you some parts of Captain Campion's testimony, and I did not understand you to contradict it. Do you know Captain Campion?—A. No; I may have seen him, but I don't know him.

Q. In how many vessels are you interested?—A. 15.

Q. How many years have you been in the business?—A. I have been in it since I owned a piece of a vessel—from 1847.

Q. How many vessels had you when you commenced?—A. I had only one-sixth part of a vessel, the whole of which cost \$1,800.

Q. You are now interested in 15 vessels?—A. In 15.

Q. You live in Gloucester and have a snug place besides?—A. Yes.

Q. What is the cost of one of those fishing vessels, take a vessel of 90 tons, present tonnage?—A. A vessel of 90 tons would cost, all rigged, about \$7,500.

Q. When you commenced business, I suppose Gloucester was rather a small place compared with what it is now?—A. It has grown some since.

Q. How much do you mean by some?—A. About one-half.

Q. In 1847, did you commence the fishery business?—A. Yes.

Q. What was the population in 1847?—A. I cannot recollect.

Q. Has it grown more than two-thirds since then—been practically built up?—A. It has been practically built up.

Q. How many members are there of your firm?—A. Three.

Q. I wish to see whether you contradict the statement of Captain Campion. This is what he said:

Q. Were they engaged in the bay fishing?—A. Captain Andrew Layton was reported to be part owner of a vessel in 1862; and when I left there he was established with seven or eight vessels, with a firm.

Q. Due to his prosecution of the bay fishery?—A. Yes: in 1863 he had a vessel out at a cost of \$14,000; he sold her that fall at St. Peter's for the same amount of money, and he declared that he cleared in the business that year the price he had paid for the vessel.

Q. Have you any recollection of the year's business in 1863?—A. I was in the Rattler.

Q. That does not dispute the statement. Have you any recollection of the year's business. You were interested in other vessels besides the Rattler?—A. I had part of two or three vessels then.

Q. He says he was informed by you, or from you indirectly, that, as the result of that year's business, you cleared the cost of that vessel?—

A. I don't know what he meant by the statement. I had no such vessel as that at that time.

Q. The statement was that "he declared he had cleared in the business that year the price he had paid for this vessel."—A. I did not have any vessel that year, only the one I went in—no new vessel.

Q. Did you ever sell a vessel at St. Peter's?—A. No.

Q. Can you tell me what was the result of that year's business?—A. I could not tell you.

Q. Can you not state what was your share of the year's business?—A. I made a little something that year. Mostly every year I was in the bay I cleared some money.

Q. Will you contradict this statement?—A. I don't think any of it is right. He has got mixed up.

Q. Is it substantially correct?—A. I had no new vessel that year. I think I know where he is, but he has got it wrong.

Q. Where is he?—A. He is two or three years behind.

Q. Then it is substantially correct, although he has not fixed the year correctly?—A. No; I did not sell any vessel at St. Peter's.

Q. I want to come to the amount of profit. Where did you sell any vessel?—A. I sold a vessel two years after, the Blue Jacket, in 1865.

Q. Where?—A. In Boston, for \$15,000. Perhaps that is what he was referring to.

Q. What profit had you made that year—you had taken 1,070 barrels in her?—A. Yes.

Q. That would leave a pretty handsome profit?—A. A very good year's work.

Q. Substantially his statement with regard to the year's business is correct?—A. I don't understand it.

Q. Did you ever make \$14,000 in a one year in your business?—A. No.

Q. I don't mean in the business, but in the firm?—A. I was not in a firm; I was fishing those times.

Q. Did you make that much in a year at any time?—A. No.

Q. But it was something comfortable?—A. I always cleared a little money every year at Newfoundland and all round.

Q. Are the fish caught off your coasts sent in the American markets fresh?—A. They are packed and salted as a rule; mackerel are mostly packed and salted. Some vessels run fresh fish to market.

Q. Before I leave the question of profits, I want to call your attention to little book published in Gloucester by Procter Brothers, called "The Fishermen's Memorial and Record Book." Do you know, or have you seen the book?—A. I have heard of it.

Q. At page 86, under head of "Largest mackerel stock," it says:

The largest stock made in the Bay of St. Lawrence mackerel fishery was that of schooner Colonel Ellsworth, Capt. George Robinson, in 1865. She was absent about five months, her net stock amounting to \$13,725. The high liner's stock was \$11,000.

Wagner, the murderer, was one of the Ellsworth crew that year. His share amounted to \$307. Owned by Rowe & Jordan.

Schooner General Grant, Captain Coas, in 1864, stocked, in two trips to the Bay of St. Lawrence, \$11,254.94 clear of all expenses. The high liner made \$502.24; cook's share, \$638.17.

Schooner Norwester, Capt. Daniel Hillier, the same year, stocked \$9,721.74, net, in one bay trip; the high liner making \$308.60, and the cook \$486.61. Both vessels owned by John Pew & Son.

Schooner General Sherman, Capt. George W. Miner, in 1864, in a three months' trip to the bay, packed 612 barrels of mackerel, her net stock amounting to \$9,696. High liner's share, \$575.06. Owned by D. C. & H. Babson.

Schooner Kit Carson, Capt. Horace Merry, in 1865, brought in 591 barrels of mackerel, having been absent about ten weeks. Her net stock amounted to \$6,542. High liner's share \$260. Owned by Rowe & Jordan.

Schooner James G. Tarr, Capt. Robert Reeves, in 1866, stocked \$5,824 in a nine weeks' trip to the bay. Cook's share, \$331.76. Owned by Dodd, Tarr & Co.

Q. You knew those vessels and their owners?—A. Yes.

Q. Do you remember the catches?—A. Yes.

Q. But you think you never made as much profit any year?—A. I never wanted to get it into the papers and swell it up any.

Q. You have had a good deal of experience in the bay, but for the last ten years you have not been fishing?—A. No.

Q. Therefore you can give no statement of the habits of the mackerel during the last ten years, and whether they have been more taken inshore than formerly?—A. I think they have. I have heard that they catch some on the south side of Prince Edward Island, where we never used to catch any; that is, off Souris. We never used to catch fish there.

Q. You have heard that they are now caught there?—A. Yes.

Q. Have you conversed much with captains in the American fleet?—A. When they come in I ask them where they caught their fish.

Q. You have learnt from them that the habits of the fish are now different?—A. They don't go on that ground at all.

Q. They don't go on the old ground?—A. No.

Q. Do they catch more inshore?—A. They don't go on the old ground.

Q. The vessels don't go on the old ground, such as Bank Bradley?—A. No.

Q. They fish around the shores more?—A. Yes.

Q. You have not been there personally?—A. No.

Q. I watched your evidence pretty closely, you being an experienced man, but I did not hear you mention Bay Chaleurs.—A. I have been there, but I never could get any fish there.

Q. Your memory probably has failed you in regard to your having caught any there?—A. No; I have not caught any there. I never went there much. I heard about vessels going up and getting nothing, so I never went up much. I always got my fish at the Magdalen Islands and Banks Bradley and Orphan.

Q. Do you know Ronald McDonald, of Souris, farmer and fisherman? In his evidence he said he was with you in the Rattler in 1859 and 1860. I will read from his statement:

Q. How many summers were you in that vessel?—A. One summer.

Q. Who was the captain?—A. Andrew Layton.

Q. Where did the vessel hail from?—A. Gloucester.

Q. How many barrels did she get?—A. About 1,000 barrels.

Q. Captain Layton is always successful apparently?—A. I believe he is.

Q. He is one of the best fishermen in the fleet?—A. In his time, when he was in the bay, I think he was.

Q. Where did you go to fish?—A. I shipped at East Point, Prince Edward Island, and we fished along to West Cape; then up the West Shore, up to the Bay Chaleurs; then off

Bank Bradley, and afterwards at the Magdalen Islands, and away up the Canada shore, above Gaspé.

Q. Did you take fish on Bank Bradley?—A. From 70 to 100 barrels.

Q. Taking the fish you got off East Point, along Prince Edward Island, along the West Shore and Canada shore, how far from the land did you catch them?—A. Along the island and the West Shore we got the principal part close to the shore.

Q. How did you do along the West Shore?—A. From the time we left Bay Chaleurs we probably got about 200 barrels.

Q. Did you fish in Bay Chaleurs?—A. Yes.

Q. How far from shore?—A. We tried everywhere: part of the time inshore.

Q. Did you fish much in the center of the bay?—A. No.

Q. Did you fish somewhat there?—A. We did.

Q. What proportion of this large catch was taken within three miles of shore?—A. About one-half.

Q. Where did you take the other half?—A. On Bank Bradley and at the Magdalen Islands.

Q. So far as regards Bank Bradley and Magdalen Islands you are in agreement, but he states that you caught fish at Prince Edward Island shore, and west shore, and in Bay Chaleurs?—A. I would like to know what year it was.

Q. Do you recollect shipping a man at East Point?—A. I never shipped any man at East Point but one, and his name was Ruth.

Q. Some people call Souris East Point?—A. I never went into Souris but twice. Once I was cast away there, and I have never been there since.

Q. You were in the Rattler in 1859 and 1860?—A. I did not get but 400 barrels in 1859, and 500 in 1860.

Q. Have you got any statement of the returns with you?—A. I have got a little memorandum of the mackerel I have caught, within a few.

Q. I understood you in your first examination to say you never knew the man?—A. Yes.

Q. Will you undertake to say you never had a man of that name on board?—A. I might have had a man of that name. I never shipped a man from East Point of that name.

Q. You might have had a man of that name on your vessel whether you shipped him at East Point or not?—A. I could not say.

Q. How can he possibly be mistaken when he comes here and states that in 1859 or 1860 he was in the Rattler, and that you caught your fish along the coast of Prince Edward Island, the West Shore, and Bank Bradley?—A. He was not with me in 1859. That was the year the vessel was new.

Q. In 1859 or 1860 did you get any men at the island?—A. Not in 1859.

Q. In 1860?—A. I don't know whether we had an island man in 1860 or not.

Q. You may have had an island man in 1860?—A. I don't hardly think I had.

Q. Will you swear you had not?—A. I will swear I never shipped one there (East Point).

Q. Will you swear you had not an island man on board?—A. No; because I don't know where the men belong.

Q. Will you swear that Ronald Macdonald was not on board your vessel in 1860?—A. No; because I don't know where the men belong; but I never got a man at the island and never fished round the island.

Q. In the statement he made, he said, "We fished along to West Cape."—A. I never knew that vessels fished at West Cape. I never knew that mackerel ever played up West Cape. I would like to see a man who ever caught any at West Cape.

Q. You have said that mackerel have struck in at different points

and that captains don't fish on the old grounds?—A. I would like to see a man who caught mackerel there during the years I was in the bay.

Q. West Cape is opposite to the New Brunswick shore?—A. Yes.

Q. Is not Miminegash between North Cape and West Cape?—A. I don't know the name.

Q. Would you be surprised to know that the best fishing at Prince Edward Island this year is at Miminegash, between West Cape and North Cape?—A. I don't know but that it may be. When I went to the bay I never knew any mackerel caught up that way.

Q. Point it out on the map.—A. The place you mention is what is called French Village. There used to be mackerel in there once in a while. The year of the gale I heard about mackerel being caught in there.

Q. That is within a very few miles of West Cape?—A. From 15 to 20 miles. That is as far as I have heard of mackerel being caught up there, except at Cape Egmont Bay, where boats take them.

Q. At what parts of the island were fish caught in your day?—A. I heard of none being caught there except along the north side.

Q. You heard they were caught along the north side?—A. Yes; but I never fished there.

Q. Do you wish to imply that there is the slightest doubt that fish were caught along the north side?—A. There were fish caught on the north side. I spoke vessels which had caught them there.

Q. You heard that from American captains?—A. Yes.

Q. Do you know Capt. Chivirie?—A. Yes.

Q. Is he a respectable man?—A. He was with me as a boy. He was then eighteen or twenty years old.

Q. Had he been fishing four or five years before he went with you?—A. Yes; out of Newburyport.

Q. Then he was a somewhat experienced fisherman?—A. I don't know.

Q. After three or four years' fishing, if a man is smart, he is considered an experienced fisherman?—A. Yes.

Q. Captain Chivirie gave his testimony, and I will call your attention to it. He said: "In 1852 I was in the Rio del Norte." Before I read that portion of Captain Chivirie's testimony, do I understand you correctly with regard to Margaree? You fished several times from Cheticamp to Margaree?—A. Yes.

Q. I understood you to say that all the fish you caught there were caught within a short distance of the shore?—A. What I caught in those years.

Q. What you caught at Margaree and on Cape Breton shore were caught inshore?—A. I told you what years I caught these there.

Q. Did you catch what you caught there within three miles of the shore?—A. Those years I caught them. In the year I caught 130 barrels in the Rio del Norte, I caught them off shore.

Q. I want to know whether the mackerel caught by you at Margaree and along the Cape Breton coast from Cheticamp to Margaree were taken within three miles of the shore?—A. All of them? No.

Q. Then I misunderstood you. You stated in answer to Mr. Foster, I thought, that at Margaree Island in 1858, in the Queen of Clippers, you caught 100 barrels inshore?—A. Yes.

Q. Were all these 100 barrels taken inshore?—A. About all those.

Q. And in 1851, in the Rio del Norte, 100 barrels at Margaree were taken inshore?—A. Not 100 barrels. I had 280 barrels, and I got

enough to make 350. I was in a gale of wind with 280 barrels and the rest I filled up at Margaree.

Q. Those you caught at Margaree you caught inshore?—A. Yes.

Q. In 1856, the third trip, you caught 75 or 100 barrels inshore at Margaree?—A. I caught 215 barrels inshore at Margaree.

Q. What year was that?—A. In 1864, I think. The year I got 1,500 barrels.

Q. I am referring to 1856. You took 75 or 100 barrels inshore at Margaree?—A. Yes.

Q. Were all those taken at Margaree taken inshore?—A. Yes.

Q. In 1854, on the second trip, you caught 350 barrels, one-half of which were taken at Margaree?—A. 215 barrels.

Q. Were they taken inshore?—A. Yes.

Q. Then all that were taken about Margaree, and from there to Cheticamp, were taken inshore?—A. Yes; all but that one time in Rio del Norte. I did not take those inshore.

Q. There was one exception?—A. Yes; that time.

Q. What was the year?—A. No man could catch any inshore that year, 1852; the year I lost the vessel.

Q. Was there anything special about the mackerel in the gulf that year?—A. I was only in a little while. I went in late in the fall, caught mackerel, got ashore, and lost the vessel.

Q. That year—1852—how many did you catch in the Rio del Norte?—A. 130 barrels.

Q. You did not come to the bay till September?—A. Some time in September.

Q. You got ashore, and abandoned the voyage?—A. Yes.

Q. Was there any conversation between you and Chivrie about his chartering a British vessel?—A. No.

Q. Can you recollect distinctly? Do you undertake to swear distinctly there was no such conversation?—A. Yes.

Q. Why do you recollect there was no such conversation?—A. Because such a thing as chartering a British vessel I never thought of.

Q. Were not the cutters there that year?—A. Yes.

Q. Were you not kept out of the inshore limits?—A. We were.

Q. Is it a thing impossible that such a conversation should have taken place, and that you should have desired to get one of your men to charter a British vessel, and so enable you to fish inshore with impunity?—A. There were not any mackerel inshore that year.

Q. Not in 1852?—A. No.

Q. Do you remember the catches made by different vessels in 1852?—A. By the time I got in the bay it was late. I know English vessels were fishing inshore, and we fished outside the line; and they would try inshore in the morning and come out to where we were. It was mackerel picking.

Q. Did the cutters run up every day marking the three mile line?—A. He staid there till night every day. He would lay off where the fleet was.

Q. Why did you not go away out into the bay?—A. Because that was the only place where we could get any fish.

Q. How large was the fleet there?—A. Not over 30 or 40 sail.

Q. That was right round Port Hood?—A. Down at Margaree.

Q. And he was staying at Margaree?—A. He would run down every morning—either the steamer or the schooner; then there was a barge n Broad Cove. When he ran down his distance he would heave his topsail back and lie to till the afternoon, then go to Port Hood.

Q. When he did that, did you not cross the three-mile line?—A. No; because if there had been any fish inshore, no doubt I would have gone.

Q. Had you any scruples about crossing the line?—A. None at all. I knew that the English vessels found no fish inshore.

Q. If there were no fish inshore and you were fishing outside and found fish there, what necessity was there for the cutter to run down to show you the three-mile line every morning?—A. He ran every day.

Q. And told you he would go every day and so mark the line?—A. He told me he ran the three-mile line.

Q. If there were no fish inshore, where was the necessity for that?—A. He was on that station and had always to stay there.

Q. You took particular notice of the line?—A. I took notice enough not to go inside at all.

Q. How far out of it did you keep?—A. Half a mile, perhaps a mile, perhaps a quarter of a mile; I might be right alongside of it sometimes.

Q. You never let the bow of the vessel cross it?—A. Not when he was there.

Q. When he was not there?—A. We had no occasion. There were not many mackerel inshore or off shore. They did not get many that fall.

Q. I will read you part of the statement made before this Commission by Captain Chivirie. He said:

In 1852 I was in the Rio del Norte. We made one trip on the American coast. We then left that coast and came down the Gulf of the St. Lawrence.

Q. And who was her captain?—A. Andrew Layton, of Gloucester.

Q. A very experienced fisherman?—A. Yes.

Q. You came down to the bay to fish?—A. We went out on the American coast. The vessel was of rather small size; she was about sixty tons, I think, and this is the reason why we went out on the American coast. We found the fish to be very small, though there were a great many in that quarter. In about four weeks we caught one hundred and ten barrels, and having landed them, we had repairs made, and fitting out, came down the bay, where most of the fleet was.

Q. He gave the same catch as you, 110 barrels on the American coast. He is correct in that?—A. I think he is.

We fished between Port Hood and Cheticamp. We made all our trip there, and were about fourteen or fifteen days on that part of the coast.

Q. Is that correct?—A. Yes.

When we came to Port Hood we found a cutter in the bay.

Q. Is that correct?—A. Yes.

A large fleet was there, but we did not mind the cutter or anything else. The captain says, "I am going to have mackerel," and we got them anyhow; and we succeeded.

Q. That tallies to some extent. You would not have minded going over the line if mackerel were there?—A. We could not have gone over if they had been ever so plentiful.

Q. If the fish had been there, you would have been there?—A. I would have been, but there were not fish enough.

In a fortnight we caught two hundred and thirty or forty barrels.

Q. Is 240 correct?—A. No.

Q. You say 140?—A. 130. I went to see the man who packed them; he is down here.

Q. Who is the man?—A. Mr. Tarr.

Q. Before you had seen Mr. Tarr, had you had this read over to you?—A. Yes.

Q. Were you at that time prepared to dispute the accuracy of Captain Chivirie's statement?—A. Yes.

Q. Before you saw Mr. Tarr?—A. Yes. I thought it was 120 myself. But Mr. Tarr said it was 130.

We saw the cutter for a few days several times, and we kept out of Port Hood Harbor. It seemed to be in the harbor of Port Hood almost every night.

Q. Is that correct?—A. Yes.

We anchored under Margaree Island and Cheticamp, and made that a harbor.

Q. That is where you anchored?—A. Yes.

Q. Did you make that a harbor?—A. We staid at Margaree all the time.

Q. How close did you anchor under Margaree Island?—A. Maybe 100 yards from it.

Q. You were inside of the three-mile line?—A. There never were any fish at Margaree Island.

Q. Between the island and the mainland, I understood you to say there was the best fishing?—A. Not between the island and the mainland, but from Broad Cove down to Margaree Island. I drifted down and anchored there while we got our trip.

A. We lay under the lee of these places. We caught the fish inshore. There was no mackerel outside the three-mile limit. I would say that five hundred barrels of mackerel were not caught by the whole fleet outside. There were not five hundred barrels caught.

Q. Outside the three-mile limit?—A. Outside two miles.

Q. That was in the year 1852?—A. Yes. The big mackerel struck from the shore, though there were many small mackerel outside, but nothing save mackerel about seven inches in length. We heaved to, and we kept out of the way of the cutter. When we threw back and there was oil about the vessel, the mackerel followed her outside. There were millions of small mackerel in this part, but of big mackerel we could not get one outside. In order to catch any fish we had to get inshore against the bank, very close to Cape Boston. We had to watch our chance to get in, when the cutter was out of the way, in order to catch our mackerel. We crossed to the island. We made two hundred and thirty barrels. In 1852 we got shipwrecked, running ashore at Souris.

Q. Is that statement correct?—A. That part about getting ashore is correct, the other is not correct.

Q. I have read you the statement, and I have asked you as I have gone through it whether certain statements were correct?—A. Some of them were.

Q. You deny the accuracy of the 230 barrels?—A. Yes.

Q. And you say that you caught them inshore?—A. Yes.

Q. Those are the two points at which you are at variance?—A. Yes.

Q. You say you would have caught the fish inside if you could have got them there, and you would have had no scruples?—A. Yes.

Q. Is there any other material statements that I have read to you that you deem incorrect?

(Mr. Foster objected to it being assumed that the witness only objected to two passages in the statement, which was so long and had been read so rapidly that he had not the chance to assent or dissent.)

By Mr. Davies:

Q. Did you understand the sentences I read from Capt Chivirie's statement?—A. I don't know. Some of them I did.

Q. Is there any part you did not understand?—A. I don't know.

Q. Did I read so fast you could not hear me?—A. I don't know whether I understood it all or not.

Q. I ask you now whether or not it is an invariable rule—this one time when you contradict Chivirie excepted—that when fishing off Margaree you catch the fish within three miles?—A. On that trip?

Q. Except that one trip on Rio del Norte when you say they were taken outside and Chivirie says they were taken inside, did you not

make all your catches of mackerel about Margaree inside the limit ?—
A. All but that trip.

Q. You have never fished in Bay Chaleurs ?—A. No.

Q. Do you understand that a large number of the American fleet did fish there ?—A. No.

Q. You never heard that ?—A. No.

Q. You have never heard that a large number of the American fleet have fished in Bay Chaleurs ?—A. No.

Q. At any time ?—A. No.

Q. Have you ever conversed with American captains about Bay Chaleurs fishing ?—A. Yes.

Q. Have they ever told you that they fished there ?—A. No. Once in a while there would be a vessel go up in the bay, and get nothing, and come out. That is the most I know about Bay Chaleurs.

Q. If a number of witnesses come here and say they fished in American vessels in that bay, and that a large fleet fished there at the same time, what would you say ?—A. What do you call up Bay Chaleurs ; from Point Miscou to Port Daniels ? I don't know that ever a great many fished up inside of that.

Q. As you have not fished there yourself, you are not prepared to say that vessels were not there ?—A. I will not swear that a vessel was not there, but a large fleet was not there.

Q. Were 30 vessels there at one time fishing ?—A. There might be, but most of the vessels fished around Magdalen Islands—the biggest fleet.

Q. I am asking you about Bay Chaleurs ?—A. I don't know anything about Bay Chaleurs.

Q. Then you will not undertake to say that vessels did not fish there ?—A. I never heard about mackerel being caught there. Whenever they get mackerel you most always hear where they get them.

Q. About the Magdalen Islands, you have spoken of Bryon Island and Bird Rocks ; how far from those did you catch your fish ?—A. At Bird Rocks we would fish to a spring.

Q. At Bryon Island ?—A. Three or four, four or five, or about 12 miles off between the two. You cannot get any mackerel close up to the island.

Q. You caught some in Cape North Bay ?—A. Yes.

Q. How far from the shore ; close in ?—A. We were inside two miles, along there.

Q. Am I correct in saying that fish taken in the fall of the year about Cape Breton Island are very good fish ?—A. They are, some years.

Q. The fish taken in June and July are a poorer class, are they not ?—
A. Yes.

Q. And in the fall the catches are made about Cape Breton more than in spring and summer ?—A. I never heard when I went to the bay of anybody catching any round those places in summer, but last year I heard they did.

Q. The fish are generally taken there toward the fall of the year ?—
A. Yes.

Q. I will call your attention to Bay Chaleurs again. I will read from the testimony of Hon. Robert Young, president of the Executive Council of New Brunswick, who lives at Caraquette, New Brunswick. You know that Caraquette is in New Brunswick ?—A. Yes.

Q. On page 395 Mr. Young was asked the question in regard to the number of American vessels :

Q. How many on an average have you seen in the bay since 1871 ?—A. I should say about 100 ; the number may be more.

Q. Do you contradict that?—A. I could not say. I don't know any thing about Bay Chaleurs, no more than I have ran in to Point Miseco to anchor in a breeze of wind.

Q. Along the west coast of New Brunswick, have you only fished there?—A. Only just in sight of the land, and not up the shores at all.

Q. Have you heard American captains speak of having fished along there?—A. Yes, at Pigeon Hill, and up inshore; I never heard of any catches of mackerel of any account inshore.

Q. Have you heard that they did fish there; and is it one of the fishing grounds to which American vessels resort?—A. They do go sometimes, I think, but not generally.

Q. I am now referring to the time when you were in the gulf?—A. Yes.

Q. In regard to Prince Edward Island, you did hear there were fishing grounds on the north side?—A. Yes.

Q. You heard that American vessels frequented there?—A. Yes.

Q. Personally you did not, to any extent?—A. No.

Q. Do Canadian vessels go to fish off the American coast?—A. I never saw any there but one or two English vessels. I saw one up there after bait one year.

Q. What was her name?—A. Lettie. There is one there this year, I think from Shelburne. These are all I have seen.

By Mr. Foster:

Q. When you speak of a trip of mackerel stocking out a certain number of dollars, what do you mean?—A. Say \$1,000; half goes to the owner, half to the men.

Q. Are the \$4,000 the proceeds of the fish?—A. Yes.

Q. That is what you mean by stocking a voyage?—A. Yes.

Q. That the stock sells for so much?—A. The fish sell for so much. If at \$10 a barrel it would be \$4,000 for 400 barrels.

Q. When you speak of net stocking, what do you mean?—A. When the barrels, packing, and bait, and all expenses are taken out, there is net stock left.

Q. It is stated in the Fishermen's Memorial and Record Book:

The largest stock made in the Bay of St. Lawrence mackerel fishery was that of the schooner Col. Ellsworth, Capt. George Robinson, in 1865. She was absent about five months, her net stock amounting to \$13,728.

Does net stock mean after the expenses of the voyage were paid?—A. Yes.

Q. Can that be so?—A. Yes.

Q. How many barrels would she have?—A. She must have had seven hundred or eight hundred barrels, 800 likely.

Q. And they would be sold for how much?—A. A big price; \$17 and \$18, I guess. I have a statement made up concerning the results of one of my own voyages, when I was in the Blue Jacket, in 1863.

Q. I see from it that on your first trip you took 604 barrels?—A. That was packed.

Q. And on your second trip 372 barrels?—A. This was packed.

Q. The 604 barrels were sold at \$8,800.65?—A. Yes.

Q. And the 372 barrels for \$6,371.07?—A. Yes.

Q. Making together \$15,171.72?—A. Yes.

Q. Now, from that is to be first deducted the cost of packing?—A.

Yes; and of bait.

Q. And the packing cost \$1,664.85, and the bait \$925?—A. Yes.

Q. Making together \$2,589.85?—A. Yes.

Q. Then you subtract from that what the mackerel sold for, which leaves \$12,581.87?—A. Yes.

Q. I see you have marked this, net stock?—A. Yes.

Q. What is then to be deducted out of that?—A. Out of the vessel's half is to be taken the cost of salt and provisions. One-half of the result goes to the crew, and then the cost of salt, and provisions, and running expenses of the vessel are to be paid.

Q. Then you divide the \$12,581.87 into two parts?—A. Yes.

Q. And out of the vessel's part come certain charges, and out of the crew's part certain other charges?—A. Nothing comes out of the crew's part save the cost of packing.

Q. Then one-half of the \$12,581.87 is to be divided among the crew?—A. Yes.

Q. What is to be paid out of the half which belongs to the vessel?—A. Well, it will cost about \$2,000 to run her, I guess. It would take somewhere about that sum.

Q. Before anything goes to the vessel?—A. Yes. It may cost more some years, but that is about a fair average, I guess.

Q. Then the expression, net stock, means the proceeds of the sale of the mackerel less the cost of packing the mackerel and of the bait?—A. Yes.

By Sir Alexander Galt:

Q. I understand you to say that it costs about \$2,000 to run the vessel?—A. Yes.

By Mr. Foster:

Q. What does the \$2,000 which you estimate as the owner's expenses consist of?—A. It goes for salt and provisions, and other things which are required to run the vessel.

Q. What is needed for this besides salt and provisions?—A. You have to buy some rigging and other things like that, which run up to \$300 or \$400.

Q. Taking out this \$2,000 from the vessel's half, the rest goes to pay the owner of the vessel for insurance and interest?—A. I do not know about insurance; the \$2,000 might cover it all. I think that this covers the insurance for four months some years. Advantage for this purpose is taken of a mutual office, and the cost depends on the result.

Q. Is that voyage, of which you have given us the particulars, one of your best?—A. No; I have done a little better than that sometimes.

Q. Which voyage did you ever make which was better than this one?—A. In the Rattler, the last year, I made a better voyage. I then got 1,510 barrels.

Q. Do you remember any other voyage which resulted better than this one?—A. No; I could not get the particulars of the other one mentioned, the man with whom I packed having gone away. He had given up the fishing business, else I would have got the particulars of that voyage.

Q. I notice some catches on the United States coast which were pretty satisfactory to the owners and all concerned:

Schooner Seddie C. Pyle, Capt. Richard Warren, in 1871, packed 1,070 barrels mackerel caught off this shore in addition to 18,000 southern mackerel sold fresh in New York in the spring. Her net stock for the year was \$10,561.66. High-liner's share, \$491.38; cook's share, \$708.52. Owned by George Friend & Co.

A. Yes.

Q. Would that be a correct statement of the voyage as far as you know?—A. Yes; that is correct.

Q. Then there was the—

Schooner Eureka, Captain Rowe, in 1868, in six months marketing of the season, packed 935 barrels, her stock amounting to \$10,748.33. Highliner's share \$116.50 and share, \$473.70. Owned by Smith & Gott and the master.

Q. Is that a correct statement apparently?—A. Yes.

Q. When you said that one of your vessels stocked \$5,000 last year, what did you mean?—A. I cleared \$5,000.

Q. What do you mean by that?—A. I had that amount of money clear after paying all expenses.

Q. That was not the net stock, but you made \$5,000?—A. Yes; she stocked about \$17,000.

Q. Then your vessel that sailed last summer stocked \$17,000?—A. Yes.

Q. What was her net stock?—A. That was about the net stock. She ran fresh mackerel. When you run fresh mackerel you take the cost of the ice out of the whole stock—the gross stock. A vessel always has something to come out of it, and that brought what was cleared down to \$5,000.

Q. I would like you to tell me what is the most money you ever made in your business in all its branches in any one year in your life?—A. The year I had the Blue Jacket I had another vessel, the Rattler; she packed a little over 1,000 barrels that year, I think. Green has it on his books now. I sold the vessel, and I guess I likely made \$10,000 that year.

Q. That was your best year; the \$10,000 includes the profit you made on the sale of the vessel; your two vessels did remarkably well that year, and one of them you yourself commanded?—A. Yes.

Q. You put in your own time?—A. Yes.

Q. What was the most money which you ever made in any one year out of your catch of mackerel in the Gulf of St. Lawrence?—A. That was the year.

Q. What is the most money you ever made out of the catch of a vessel which you commanded in one year?—A. I could not tell you. In the Rattler that year I got 1,510 barrels, but I could not tell you how much I made out of it. If, however, I had the statement for that year, I could do so.

Q. Going outside the profit you made on the sale of your vessel, could you give the Commission an estimate of the average which you made during those years when you were skipper, going for mackerel to the gulf to fish? You were a very successful fisherman, in command of good vessels, and you had a series of lucky years; and if you could give the average amount of money which you made during those years, I would like to have it.—A. I suppose that I may have cleared about \$1,000 a year, all the year round, in my whole business.

Q. Do you mean over and above family expenses?—A. Yes; about that, and during 20 years.

Q. Would you put down your family expenses, on the average, on \$1,000 more a year?—A. They would be something like that, I guess.

Q. Then you have made about \$2,000 a year on the average, out of which you have paid your family expenses?—A. Yes.

Q. During the examination of Captain Chiville, he was asked:

Q. You came down to the bay to fish?—A. We went out on the American coast.

Is that correct?—A. Yes.

Q. "The vessel was of rather small size; she was about sixty tons, I think, and this is the reason why we went out on the American coast."

What do you say about that?—A. That is not correct. The vessel was as large as the average then in use. I used to go to Georges Bank in her, and everywhere. I went in her to Georges Bank all the year round, never hauling up in December, January, or at any other time.

Q. "We found the fish to be very small, though there were a great many in that quarter." How is that?—A. They were small and they fetched a low price.

Q. "In about four weeks we caught one hundred and ten barrels, and having landed them, we had repairs made, and fitting out, came down the bay, where most of the fleet was."—A. That is correct.

Q. "We fished between Port Hood and Cheticamp."—A. That is correct.

Q. "We made all our trip there, and were about fourteen or fifteen days on that part of the coast."—A. That is correct.

Q. "When we first came to Port Hood we found a cutter in the bay."—A. That is correct.

Q. "A large fleet was there, but we did not mind the cutter or anything else."—A. That is not correct.

Q. What part of it is incorrect?—A. That which relates to not minding the cutter. We did mind her, for if there had been no cutter there we would have tried inshore.

Q. Was there a large fleet there?—A. No, not very large. There were about 30 sail of vessels.

Q. "The captain says, 'I am going to have mackerel.'" Do you remember that?—A. No; I do not.

Q. You perhaps know whether you were likely to tell this young fellow of 18 or 20 your plans in that way?—A. I did not do so.

Q. "And we got them anyhow; and we succeeded." What do you say to that?—A. We got 130 barrels and that was all.

Q. "In a fortnight we had caught two hundred and thirty or forty barrels. We saw the cutter for a few days several times and we kept out of Port Hood Harbor?"—A. We never went to Port Hood after we went down. We made harbor at Margaree Island.

Q. "It seemed to be in the harbor of Port Hood almost every night?"—A. Yes; she used to go up there every night unless it was very pleasant, when she would lay off the island.

Q. "We anchored under Margaret Island and Cheticamp, and made that a harbor?"—A. That is correct.

Q. "We lay under the lee of these places?"—A. That is correct.

Q. "We caught the fish all inshore?"—A. That is not correct.

Q. "There were no mackerel outside the three-mile limit?"—A. That is not correct. There were more mackerel inside than outside the limit where the English vessels were, I think. The English vessels would try inshore in the morning, when we would bear up and run out, and along about nine or ten o'clock they would come out where we were, and that made me think that there were no mackerel inshore—not but that there were plenty of them inshore after the gale.

Q. "There were not five hundred barrels so caught?"

Q. Outside the 3-mile limit?—A. Outside of 2 miles.

Q. That was in the year 1852?—A. Yes. The big mackerel struck into the shore, though there were many small mackerel outside, but nothing save small mackerel about 7 inches in length.

A. That is wrong.

Q. "I would say that five hundred barrels of mackerel were not caught by the whole fleet outside?"—A. That is not correct.

Q. "We heaved to, and we kept out of the way of the cutter?"—A. We

kept out of the way of the cutter because the cutter never troubled us, and that was because we kept outside of the limits.

Q. "When we threw bait and there was oil about the vessel, the mackerel followed her outside"?—A. I forget such things as these.

Q. "There were schools of small mackerel in this part, but of big mackerel we could not get one outside; in order to catch any fish we had to get inshore against the bank, very close to Cape Breton"?—A. That is wrong.

Q. "We had to watch our chance to get in, when the cutter was out of the way, in order to catch our mackerel"?—A. There was no chance of getting inshore at all.

Q. "In 1852 we got shipwrecked running ashore at Souris"?—A. That is correct.

Q. "We crossed to the island. We made 230 barrels"?—A. That is not correct.

Q. "Our main object was to charter a British vessel and put some of our experienced fishermen on her, so as to fish without any fear of the cutters"?—A. I never thought of such a thing.

Q. Did you ever speak of such a thing to any human being?—A. No.

Q. Had you the means to charter an English vessel?—A. No.

Q. And after your vessel was wrecked you say that you sent for the underwriters and came home?—A. Yes.

Q. What did you do with your 130 barrels of mackerel?—A. I shipped them home in another vessel.

Q. Did you try to fish any more up here that year?—A. No.

Q. Did you make any arrangements to do so that year?—A. No. When that gale of wind commenced everybody got kind of frightened. The water was stirred up and thick, and we all gave up and went home.

By Mr. Davies:

Q. I think you said that the \$2,000 which you put down for the expenses of the vessel includes everything for wear and tear, rigging, supplies, insurance, and other vessel expenses?—A. That is only a rough guess.

Q. But that is your estimate?—A. I think that it would be about that; if you reckon in the charter it would be about \$1,000 more. We paid \$1,000 for chartering a vessel that year.

Q. This \$1,000 would be additional if you chartered a vessel?—A. Yes.

Q. You mentioned in your items of expense salt and provisions?—A. Yes.

Q. And \$300 or \$400 for rigging, wear and tear?—A. Yes.

Q. Do you include these items in the \$2,000?—A. I think that would cover them.

By Mr. Foster:

Q. What wear and tear do you mean?—A. A vessel on a four months' trip in the bay wears out sails and rigging; and if you charter a vessel and pay \$1,000 for it, the charterer does not pocket \$1,000 clear, as he has to keep his vessel in repair, which will cost \$300 or \$400.

By Mr. Davies:

Q. Would not \$250 a month be a fair price for the charter of a fishing schooner?—A. I think so.

By Sir Alexander Galt:

Q. You have had a great experience in these matters; and I would

like to ask you whether you do not think that \$2,000 is not a little too high for the purposes in question?—A. I do not know but what it is.

Q. How many men would there be on board a vessel?—A. We carried from 15 to 22 in the Wildfire and Blue Jacket. The cost of salt and bait mounted up to a pretty figure then, though this is not now the case.

Q. One of the witnesses has told us that salt costs 90 cents a barrel?—A. That is now; but in the war times salt was high as well as everything else.

Q. Would you put down for provisions for the crew about \$1.50 a week per man?—A. Well, I guess that would not be far out of the way.

No. 22.

THURSDAY, *September 27, 1877.*

The Conference met.

AARON RIGGS, master-mariner, of Gloucester, Mass., was called on behalf of the Government of the United States, sworn and examined.

By Mr. Trescot :

Question. How old are you?—Answer. 57.

Q. How long have you fished in the Gulf of St. Lawrence?—A. When I first went there, I was 15 years old.

Q. How long have you been going there as skipper?—A. I first went as skipper in 1845.

Q. In what vessel?—A. The Deposit.

Q. What was your catch that year?—A. 130 barrels.

Q. Whereabouts were they taken?—A. We fished on Bank Bradley.

Q. That was the only trip you made that year?—A. Yes.

Q. And you caught all your fish on Bank Bradley?—A. Yes.

Q. Were you in the bay in 1847?—A. Yes; in another vessel. I was not the skipper.

Q. When did you go to the bay again as skipper?—A. In 1854.

Q. Where were you fishing in 1847, '8, and '9?—A. I was fishing on our shore.

Q. What sort of fishing did you have there during those years, as a general rule?—A. Well, we had pretty good fishing; one year we got between 600 and 700 barrels. I was not skipper at the time.

Q. When did you next go into the Gulf of St. Lawrence?—A. I was there in 1854.

Q. Were you not there in 1850?—A. Yes; in 1850 and 1851 I was in the bay, but I was not skipper.

Q. What vessel were you in during 1850?—A. The Gazelle.

Q. Where did you fish?—A. We caught our fish between Point Escuminac and North Cape.

Q. What did you catch?—A. We made 2 trips, and caught 240 or 250 barrels on the first and 175 barrels on the second.

Q. Did you fish inshore on any of those occasions?—A. No; not within 3 miles of the shore.

Q. Were you in the bay in 1851?—A. Yes; and made two trips.

Q. Where did you catch your fish?—A. About North Cape.

Q. At what distance from it?—A. Ten or 15 miles, and maybe 20 miles.

Q. Were you in the bay in 1852?—A. No.

Q. Or in 1853?—A. No.

Q. Were you there in 1854?—A. Yes.

Q. Where did you then fish?—A. About all over the bay. I could not tell you exactly where we got our fish that season; mackerel were then pretty scarce. I was in the Ohio at the time.

Q. What was your catch?—A. Two hundred barrels.

Q. What proportion of these 200 barrels was taken within the 3-mile limit?—A. About 20 barrels, I think. The cutters were round then; and we did not fish inshore at all; I do not know that we got any fish inshore that year.

Q. In what vessel were you in 1856?—A. The *Leading Star*.

Q. Where did you fish in her?—A. Over at the Magdalen Islands.

Q. What did you catch?—A. About 230 barrels.

Q. In what vessel were you in 1857?—A. The *Ellen Francis*, I think.

Q. Whereabouts did you fish?—A. We got them to the northward of the Magdalen Islands—between there and Bank Orphan.

Q. In what vessel were you in 1858?—A. The *Ellen Francis*.

Q. Where did you fish?—A. We fished some off Point Misson, Bank Orphan, and Gaspé Bank.

Q. During how many years from 1857 on did you fish in the gulf? You did so in 1858, 1859, and 1860, and up to what time?—A. The last time I was fishing there was in 1875; I was not skipper at the time; but we did not stop in the bay at all that season.

Q. You fished in the bay in 1858, '9, and 1860, '1, '2, '3, '4, '5, '6, '7, '8, '9, 1870, '1, '2, '3, '4, and '5?—A. Yes; but I was not skipper either in 1873 or 1875.

Q. You were skipper all these years, 1873 and 1875 excepted?—A. Yes.

Q. Without going into the trips particularly, state where you fished, when on these trips, as a general rule.—A. We caught the biggest part of our fish at the Magdalen Islands, and we took about 200 barrels down off Margaree.

Q. During that time, as your recollection serves you, what proportion of your fish did you take within the 3-mile limit?—A. I could not say that we caught more than one-twelfth part there while I was in the bay.

Q. What was the best fishing which you did during that time?—A. We always did our best fishing over at the Magdalen Islands. I got as high as 140 wash-barrels, or about 125 barrels at one time, and 900 barrels during my best trip these years.

Q. When was that?—A. In 1864.

Q. In what vessel were you at the time?—A. The *Galena*.

Q. How many trips did you make that year?—A. We only made one trip before we landed 300 barrels in the gut. We carried them all home ourselves.

Q. And that year you caught 900 barrels?—A. Yes.

Q. What was the nearest approach that you made to that catch during the other years?—A. The next year we got 650 barrels.

Q. Where were the 900 barrels mostly taken?—A. To the northward of the Magdalen Islands.

Q. And the next year you caught 650 barrels?—A. Yes; we got 350 about northwest and about 75 miles from East Point, Prince Edward Island.

Q. With your experience of the fishing in the Gulf of St. Lawrence, do you attach much value to the privilege of fishing within the 3-mile limit?—No; I do not. I never caught any fish within that limit save very few.

Q. When fishing in the gulf, what was your experience with regard

to the safety of fishing about the Magdalen Islands?—A. Well, I call that the safest place there is in the bay for fishing purposes. I was once caught in the bend of the island and I did not fancy it. The vessel went ashore, but nevertheless we got out of our difficulty safe.

Q. Do you know the number of mackerel-fishing vessels which are now in the gulf from Gloucester?—A. I do not.

Q. Do you know, speaking generally, whether the number of these vessels from Gloucester is now larger, or as large as or smaller, than it used to be?—A. O, it is smaller.

Q. With your experience, which would you rather have, \$2 per barrel duty levied on fish which competes with yours or the privilege of coming within the three-mile limit in British waters?—A. Well, I should rather have the \$2 duty.

By Mr. Davies:

Q. I see you have a memorandum; did you make it up in order to give in your evidence?—A. I made it up for the years during which I was fishing.

Q. In 1850 you were in the *Gazelle*?—A. Yes; but I was not master.

Q. In what vessel were you in 1851?—A. In the *Leading Star*; but I was not master.

Q. What did you catch?—A. On both trips we got between 300 and 400 barrels.

Q. In 1854 you were in the *Ohio*?—A. Yes.

Q. And in 1856 you were in the *Leading Star*?—A. No; I was in the *John*.

Q. Where were you in 1857?—A. I was in the *Ellen Francis*.

Q. And in 1858?—A. I was then in the *Leading Star*.

Q. What did you take that year?—A. 230 barrels.

Q. And in 1857?—A. I was in the bay two trips that year; we got 230 barrels on the first and 175 barrels on the second.

Q. In what vessel were you in in 1859?—A. The *Leading Star*.

Q. What was your catch?—A. 260 barrels.

Q. And in 1860?—A. I was then in the *Anglo Saxon*.

Q. What was your catch?—A. 300 barrels.

Q. And 1861?—A. I was then in the *Anglo Saxon*. Our catch was 300 barrels. In 1862 I was in the *Ellen Francis*; our catch was 200 barrels. In 1863 I was in the *Weather Gauge*; catch, about 500 barrels. In 1864, in the *Galena*; catch, 900 barrels. In 1865 I was in the *River Dale*.

Q. Are you sure whether it was in 1864 or '5 that you were in the *Galena*?—A. It was in 1864, I am positive. I will take my oath to it.

Q. How many did you catch in 1865?—A. 650 barrels.

Q. In what vessel were you in 1866?—A. The *John Bright*.

Q. What was your catch?—A. 750 barrels.

Q. In what vessel were you in 1867?—A. The *Alaska*.

Q. What was your catch?—A. About 500 barrels. We made two trips.

Q. In what vessel were you in 1868?—A. The *Rush Light*; our catch was 300 barrels. I was also in her in 1869, when our catch was about 300 barrels. In 1870 I was in the same vessel; and our catch was about 270 barrels. In 1871 I was in the same vessel; our catch was a little short of 200 barrels. In 1872 I was in the same vessel, and our catch was about 250 barrels.

Q. In what vessel were you in 1873?—A. I cannot think of the name. I was not skipper at the time.

Q. And 1874?—A. I was not in the bay that year.

Q. Were you in the bay in 1875?—A. Yes; in the Martha C., but we did not stop, as we did not get any mackerel at all.

Q. How long did you remain in the bay?—A. Three weeks, I think. We tried to seine, but we did not get any fish at all.

Q. Who was captain of the Galena when you were in her?—A. I was.

Q. Do you know Captain Beaton?—A. Yes.

Q. Did you know him when he was captain of the Galena?—A. Yes; it was in 1865 when he was captain of that vessel.

Q. Did you see him in the bay in 1865?—A. Yes.

Q. Do you know what he caught that year?—A. No, I do not recollect.

Q. Or where he caught them?—A. No.

Q. Was Joseph Beaton, of West Point, in the Galena the year you were captain of her?—A. No.

Q. You said you fished all over the bay some years?—A. Yes; we fished in different parts of it.

Q. Have you fished at all about Seven Islands?—A. No; I never fished there.

Q. It is a fishing ground for some fishermen?—A. I suppose so.

Q. Have you heard American captains speak of it as a fishing ground?—A. I have heard them speak of catching mackerel there. I heard James Pattilo tell about catching mackerel there.

Q. He is an American captain?—A. He has been one, but he was not one then. He used to belong up here in Nova Scotia somewhere.

Q. Did he fish in American vessels?—A. He has fished in them.

Q. Did you ever fish along the Gaspé shore about Bonaventure?—A. I fished along about northwest of Bonaventure—just in sight of it.

Q. You never fished close in there?—A. No.

Q. Do you know whether any of the fishing fleet fish about there at times?—A. The vessels that do so are very scattered, I guess.

Q. Have you heard fishermen speak of it as a fishing ground?—A. It used to be such.

Q. And is now, for aught you know to the contrary; you have not been there to test it?—A. No; not of late years.

Q. There is a celebrated place which has been frequently mentioned before the Commission—the Bay of Chaleurs—have you ever been there?—A. I have been up there, but I never caught any mackerel there.

Q. Did you ever try there?—A. Yes; off Paspébiac.

Q. Perhaps you fished only in the center of the bay; did you come within the three-mile limit there?—A. No.

Q. And therefore you did not catch any fish?—A. No.

Q. I do not wonder at that?—A. At what?

Q. Your not getting any fish there?—A. There were none there.

Q. If you did not go inshore to try, I do not see how you know that; did you try within three miles of the shore there?—A. No; but I saw the boats fishing, and they did not get any. I spoke to them.

Q. How often were you in the Bay of Chaleurs, when you saw boats fishing there?—A. I do not suppose that I have been there more than three times in my life.

Q. And when there you only tried beyond three miles from the shore?—A. Yes.

Q. And got no fish?—A. Yes.

Q. Did you ever try along the West Shore, on the New Brunswick coast?—A. Yes.

Q. That is a rather noted fishing-ground, is it not?—A. Yes, I have tried in there pretty handy.

Q. Not when the cutters were about, I hope?—A. No, we did not do so then.

Q. When the cutters were away, you tried there?—A. When I had a license I tried in there.

Q. And how did you succeed then?—A. We could not find any mackerel inshore there, save what the boats catch, and those I call eel-grass mackerel.

Q. But you did not catch them?—A. No.

Q. Therefore you did not even get eel-grass mackerel there?—A. We did not get any.

Q. During the years when you had a license you did try in along the West Shore, and were not successful?—A. One year we did so, and one year we did not, catching all our mackerel that season over at the Magdalen Islands.

Q. And the year you tried in there, you did not catch any fish at all?—A. We never caught any fish in there.

Q. Even when you had a license?—A. No.

Q. Vessels frequent that fishing-ground at times?—A. They go all over the bay.

Q. You have heard of that place as a fishing-ground?—A. Yes.

Q. Did you ever try around Prince Edward Island?—A. No, not that year.

Q. Or any year?—A. Yes, I have tried around Prince Edward Island a good many times.

Q. We have evidence of the fleet going there to fish up and down the shore of the Island?—A. I never caught but very few mackerel round Prince Edward Island. I took them just in sight of land, ten miles off.

Q. Did you come nearer to the shore than ten miles?—A. I have hove to within one mile of it, but I never caught any fish.

Q. You hove to and drifted off?—A. Yes. I drifted as much as five or six miles off.

Q. Were other vessels doing the same thing when you were there?—A. Yes.

Q. Were there many of them?—A. There might have been a dozen or twenty sail.

Q. Within sight of you?—A. Yes.

Q. Off what particular part of the island did you try?—A. Up between the First and Second Chapel.

Q. Toward East Point?—A. Yes. The First Chapel is about nine miles from there, and the other is about fifteen miles up.

Q. I understand that the ground between the First and Second Chapel is a good fishing ground; has it that reputation?—A. I never found it to be so.

Q. Have you heard it so spoken of among American fishermen?—A. Yes; I have heard folks speak of it; but it is not such a good fishing ground as the Magdalen Islands. It does not begin to be like the Magdalen Islands.

Q. Have you heard of the ground between First and Second Chapel spoken of by American captains or fishermen as being a good fishing-ground?—A. Yes; along about the middle of September I have heard of them getting spurts of mackerel there.

Q. The fleet goes there every year, more or less?—A. Some vessels do so, and some do not.

Q. Have you fished up off Rustico and New London, and Malpeque

and that part of the island?—A. I have caught mackerel about 13 miles from New London Head.

Q. You were not fishing within three miles of the land there?—A. No; I was from 10 to 15 miles off shore.

Q. Did you never come inshore and drift off there when you had a license?—A. When I had a license we never tried inside of the three-mile limit. The first year I had a license I only tried two or three times there, and then went over to the Magdalen Islands and Bank Bradley.

Q. You never tried off Tignish?—A. No.

Q. Nor off North Cape?—A. No.

Q. Then, with one exception, when you tried inshore between the two Chapels, you never went within three miles of the shore at Prince Edward Island to fish? Will you make that assertion before the Commission?—A. I never caught any fish there within the three-mile limit. We might have been within this limit, but I do not think that we were. Three miles on the water is a short distance.

Q. When you were or might have been within three miles of the shore there, did you catch any fish?—A. No. We drifted seven or eight miles off.

Q. And you caught fish 7 or 8 miles off shore?—A. Yes.

Q. Did you draw mackerel with you from the shore?—A. The mackerel were not there in the first place when we hove to.

Q. Did you ever hear of vessels coming within 1 or 1½ miles of the island, throwing out bait, drifting off and catching fish?—A. I never did—save as to boats.

Q. Did you ever hear of American vessels running in to within 2 miles or 1½ miles or a mile, or about that of the island shore with the object of fishing, throwing out bait, and then drifting off, fishing as they went?—A. No.

Q. You did that once yourself off Two Chapels?—A. I hove to and drifted off, but we did not get any mackerel until we were 6 miles off.

Q. And from 10 to 20 vessels were then doing the same thing?—A. Yes.

Q. How often did you repeat that practice the same year?—A. We might have done so that day once or twice, and then we ran off to some other place.

Q. It was only one day during which you tried it?—A. Yes.

Q. And you have only had one day's fishing within 3 miles of the shore of Prince Edward Island?—A. Yes.

Q. You are quizzing me about the 3 mile limit.—A. No, I am not.

Q. Had you more than one day's fishing within 3 miles of the island coast?—A. I do not think that I did.

Q. And you never caught any fish within 3 miles of Prince Edward Island?—A. I never did, round the Island.

Q. Not even the day you went inshore near Two Chapels and drifted off?—A. No. I call it six miles off where I caught fish then.

Q. Then you only tried once inshore off Prince Edward Island?—A. Yes. We were then within or about three miles off, I calculate.

Q. In all your fishing experience, that was the only time when you tried within three miles of the Prince Edward Island shore?—A. Yes—within what I call three miles.

Q. Your three miles must be the same as mine?—A. Of course.

Q. Is there any difficulty in telling when you are three miles off the island coast?—A. I never measured it save with my eye, and I never calculated getting within three miles of the land, especially when the steamer were there.

Q. Especially when the cutters were there?—A. Well, I never did so; they used to run up and down, three miles off shore, and we used to fish outside of that.

Q. During the whole term of the Reciprocity Treaty, or nearly so at all events, you were fishing in the Bay of St. Lawrence?—A. Yes.

Q. And then you had a right to fish within three miles of the shore?—A. Yes.

Q. Do I understand you to say that during this period you never fished within three miles of the island coast?—A. Yes.

Q. I understand you to say that ever since you have fished in the bay, you never fished within three miles of Prince Edward Island, with one exception?—A. Yes.

Q. Is there any doubt in your mind as to where the three-mile line runs?—A. It is hard to tell where it runs unless you measure the distance. When you do so with your eyes, you have to go by your judgment.

Q. In point of fact, Captain Riggs might have been within the three-mile limit, but did not think that this was the case?—A. I do not think that he was.

Q. Might you have been?—A. I might have been if I measured it; I suppose you could not tell anything about it.

Q. You might have been; but you did not measure it; and I suppose that you would not be very particular about it if you were catching fish?—A. As long as we were catching fish I did not trouble myself about it, since I knew that we were six miles off shore. The steamer used to run up about three miles off shore, and we always used to fish outside of her.

Q. But there was no steamer so running during the Reciprocity Treaty?—A. No; but we never fished round there during that time.

Q. When you had a right to go inshore and fish you did not go?—A. No.

Q. You have fished about the Cape Breton shore?—A. Yes.

Q. This would be towards the fall of the year?—A. Yes; I got the biggest part of a trip there.

Q. When do the mackerel strike the Cape Breton shore?—A. In October.

Q. Do the fleet fish much there in October?—A. They used to do so; but of late years they have not caught any fish there at all.

Q. Have you tried of late years there?—A. No.

Q. Have you been there of late years?—A. No; not since 1867.

Q. Then you cannot tell whether fish are caught there or not?—A. Well, I have never heard of anybody catching them thus.

Q. But before that you did?—A. Yes.

Q. Did you catch your whole fare there?—A. Not quite.

Q. How many barrels did you take there?—A. About 200.

Q. When was this?—A. In 1867.

Q. Was that the only time that you ever caught fish there?—A. Yes.

Q. Perhaps it was the only time you ever tried there?—A. No.

Q. Did you try there every year?—A. No; I may have been there a dozen times from first to last. I cannot speak more particularly on this point.

Q. Do you believe that you have tried there a dozen times?—A. I have done so for mackerel, but I never got any there save once.

Q. And that was when you caught about 200 barrels there?—A. Yes.

Q. You never caught any at all there on the other occasions?—A. No; I don't recollect of having done so.

Q. Where did you try there?—A. We used to try all the way up and down. We used to catch all our mackerel between East Point and the Magdalen Islands.

Q. Did you try in Cape North Bay?—A. No.

Q. Name the places where you tried.—A. We did so about Chatham and Margaree.

Q. Is this the place where you think you tried about twelve times?—A. Off and on, yes, at different times.

Q. How close to the shore did you try?—A. Sometimes five and sometimes four miles off.

Q. And you never tried within the three-mile limit except once?—A. I do not think that I did.

Q. And then you caught 200 barrels?—A. We caught them outside of the three-mile limit, I expect; they were taken at a place called Broad Cove.

Q. That is to the southward of Margaree?—A. Yes.

Q. How far from the shore were you when you caught 200 barrels there?—A. We might have been $2\frac{1}{2}$ or 3 miles or so off.

Q. You just told me that you did not catch any within the three-mile limit?—A. I do not think, however, but that we were three miles off.

Q. What, then, do you mean by telling me that you caught them $2\frac{1}{2}$ or 3 miles off?—A. Some we got outside the limits and some inside. I cannot tell exactly or give a fair statement about it; I never measured the distance.

Q. We know that no fisherman measures it; but, as an experienced mariner, you are able to form a judgment on the matter. Now tell us frankly what proportion of the 200 barrels you caught within the three-mile limit.—A. It might have been 150.

Q. And the rest might have been taken outside?—A. Yes.

Q. And that was the only time when you fished there within three miles of the shore?—A. It was.

Q. And for a very short time you fished 4 or 5 miles off the Cape Breton shore and caught nothing?—A. Yes; we just tried, but did not fish in there because there were no fish there.

Q. And you have been fishing all these years in the bay, and you have never tried but once within three miles of the Prince Edward Island coast?—A. Yes.

Q. You never fished in the Bay of Chaleurs or off the West Shore, within three miles of the coast, and never but once within three miles of the Cape Breton shore. How often did you take out licenses?—A. Twice.

Q. Why did you take them out?—A. I did so at the request of the owners, else I should not have taken them out.

Q. Who were the owners?—A. George Norwood was the owner of the John Bright.

Q. Why did the owners do so? They must have known that you never caught any fish within the three-mile limit.—A. They wanted to be safe. Cutters were round, and they did not know where we would fish. I told them that it was of no use, but they insisted on it, and so I took them out.

Q. If you always fished around the Magdalen Islands and in the center of the Bay of Chaleurs, and on Bradley and Orphan Banks, where no cutters were, why did you want licenses?—A. Well, that did not make any odds. If they told me to take them out I had to do so. I told them where I commonly fished, but they said they wished licenses to be taken out.

Q. Excuse me; it was not where you commonly fished, but where you invariably fished.—A. Yes; about every year that I have fished in the bay, I have fished round the Magdalen Islands and on Bank Bradley.

Q. In all your experience, you only fished twice within three miles of the shore in the bay; and notwithstanding that fact you took out licenses, though you had invariably fished in the deep sea where you ran no risk—those two times excepted. Does not that strike you as being a little curious?—A. No; I do not think that there is anything curious about it.

Q. What was the size of the vessels in which you fished during the two years when you took out licenses?—A. One was 132 tons, and the other, I think, 51 tons.

Q. Suppose that you were cruising along the coast of Cape Breton when you had no license, and saw fine fishing within the limits, would you have kept out or would you have gone in and taken fish?—A. I cannot tell anything about that.

Q. What is your opinion about it?—A. I do not think I should have gone in if the cutters were round, or any such thing as that.

Q. But if the cutters were not round?—A. I should not have gone in; I should not have known anything about it.

Q. You would not then have measured the distance you were from the shore to see whether the school was within three miles of the shore or not?—A. Yes.

Q. How would you have measured it?—A. With my eye.

Q. What do you think would have been the result; would it have been that you were $3\frac{1}{4}$ miles from the shore?—A. The cutters took vessels 7 or 8 miles off.

Q. Don't you think that that amusing eye of yours would have made the distance $3\frac{1}{4}$ or $3\frac{1}{8}$ miles?—A. No; I do not think it would.

Q. During the years when you came down to the bay, how many Gloucester vessels came to the Gulf of St. Lawrence? Take the time when the Reciprocity Treaty was in force.—A. There were 250 or 300; about 250, I guess, or 275, or along there; that would be as many as were there.

Q. You say you would prefer a duty being imposed on our mackerel to the right to fish inshore in British waters?—A. I should.

Q. Why do you want a duty on?—A. It is no benefit to us to fish inshore that I ever saw.

Q. Why do you want it on?—A. Well, we would have a better market for our fish.

Q. Would you get a higher price for them?—A. We should; yes.

Q. And therefore you are speaking as a fisherman; as such you would like to get the highest price you could for your fish?—A. Certainly.

Q. You think that the imposition of a duty would give you a better market?—A. Yes; if Canadians had to pay the duty, it is likely they would not fetch the fish in.

Q. What would be the result of that?—A. We would have a higher price and a quicker market.

Q. You would have a higher price?—A. I do not know that this would be the case, or anything about it; but it would be a quicker market for us.

Q. I see that you fished chiefly in the bay; you did not often go on the American coast to fish?—A. I fished there some years.

Q. But very few apparently?—A. For several years I did so, I guess. One year I was in the bay, and went out with 100 barrels; and then fished on our coast, where I got 500 barrels.

Q. I understand that from 1856 down to 1872 you fished invariably in the bay every year?—A. Yes; but I was not captain the whole time.

Q. And during those years you were not, of course, on your own coast?—A. Yes; some years.

Q. Between 1856 and 1872?—A. Yes; I fished on our coast after we went out of the bay.

Q. Every year?—A. No; not every year.

Q. But some years you did so?—A. Yes.

Q. What catches did you there make in the fall after you left the bay?—A. One fall we got 200 barrels.

Q. Is that a high or low catch for the fall?—A. It was just about an average catch that fall, I think.

Q. Possibly; but is that a fair average of the catches you made during different falls on the American coast?—A. Well, no.

Q. Would 60 barrels be under the average?—A. No; I guess about 100 barrels would be an average catch there in October.

Q. Did you ever fish about Grand Manan?—A. No.

Q. You were never on that coast at all?—A. No.

Q. Have you ever heard of the fisheries there?—A. I have heard tell of fishing on the Grand Manan Banks.

Q. What was said about it?—A. I heard of the catch of codfish there.

By Hon. Mr. Kellogg:

Q. You said during cross examination, there was one time when you were in the bay, but stayed only a short time and went out. I understood you to say that you remained there about three weeks?—A. Yes.

Q. When did you then leave the bay?—A. The first of September.

Q. Did you do so because you did not catch any fish?—A. Yes; we went in with a seine.

Q. Did you ever fish off Rustico?—A. No; not broad off.

Q. Have you ever been in the neighborhood of Rustico Bay?—A. No.

Q. Where do they fish off Rustico generally?—A. The boats there fish close inshore.

Q. Where do the vessels fish there?—A. I do not know. I do not know anything about the fishing off there.

Q. Is it within the means of fishermen in the waters there to obtain intelligence about the fishing at the different localities which the mackerel frequent, without visiting these places themselves? If you were, for instance, at the mouth of the Bay of Chaleurs, or in it, could you hear one day after another whether mackerel were to be caught in certain localities without visiting them?—A. Yes.

Q. Whether this is true or not as to the coast generally, is there not a sort of fisherman's telegraph passing intelligence from one vessel to another with respect to the different localities where the fish are?—A. Yes, sometimes this is the case.

Q. So you can learn whether the mackerel are in certain localities without visiting them?—A. Yes; we speak with other vessels, and they will give us such information.

No. 24.

JOHN J. ROWE, fisherman, of Gloucester, was called on behalf of the Government of the United States, sworn and examined.

By Mr. Dana:

Question. Were you born in Gloucester?—Answer. Yes.

Q. When did you first go fishing?—A. Somewhere in 1841 or 1842. I

think. I was but a youngster at the time, and I went fishing on our shore.

Q. How did you do that year?—A. Not much of anything. Probably during the whole season we got 150 or 200 barrels; the mackerel were not very plentiful that year. The next voyage I made was in 1842 in the bay, in the Tremont.

Q. How much did you then take?—A. We packed out 47 barrels.

Q. For how many did you fit out?—A. About 250 barrels.

Q. What was the trouble?—A. There were no fish in the bay.

Q. How long did you stay there?—A. We went out on the 8th of July, and we arrived home on the 8th of November.

Q. Where did you try in the bay?—A. We tried in every possible part of the bay where the fish went; then we did not go up above Gaspé, but around Banks Bradley and Orphan.

Q. And the Magdalen Islands?—A. Yes; and to all the offshore grounds where the fish were generally found.

Q. Were there many American vessels in the bay then?—A. The fleet was very few in number.

Q. They had not begun to send large fleets into the bay at that time?—A. O, no; very few Gloucester vessels were then there in my recollection.

Q. And the American vessels then in the bay were not very many?—A. They were very few. Most of the American vessels which were then sent to the bay came from Newburyport. Our fleet had not begun to increase much then.

Q. Where were you fishing from 1843 to 1854?—A. On our shore.

Q. How did you do on the whole?—A. We did generally a fair business; the fishery there was better then than it is now.

Q. What did you catch?—A. Mackerel and codfish; during the early part of the season we fished for cod on George's Bank, and during the latter part of it we fished round our coast.

Q. Did you try in the bay at all during those 11 years from 1843 to 1854?—A. Not to my knowledge.

Q. Between 1843 and 1854, did you go into the bay at all?—A. I did.

Q. When did you do so?—A. In 1851.

Q. Were you there at the time of the gale?—A. Yes; I was there with James Pattillo.

Q. How much did you take that year?—A. We packed out somewhere about 480 barrels.

Q. Where were they caught?—A. Some of them broad off Gaspé and on Banks Bradley and Orphan, and along there. We fished more to the north than now; I do not think we caught any of them at the Magdalen Islands.

Q. Where were you at the time of the gale?—A. In the bight of the island; we got about 7 leagues from the shore that night before the gale came on. It was all of that distance off, and we were in 27 fathoms of water.

Q. That gave you an offing of over twenty miles?—A. Yes; we were right off St. Peter's.

Q. What did you do when the gale came on?—A. That morning when it was blowing heaviest we laid to under a reefed foresail. We found that the tide, which was running fast, was taking us into the bight of the island, and we laid to under a two-reef foresail.

Q. Is there only a two-reef foresail?—A. We have what is called a second, third, and first reef.

Q. And you drifted?—A. We kept drifting and dragging in on the land.

Q. What is the effect of the wind on the tide there?—A. When the wind makes right in from the east, northeast, and east, it sets the tide into the bight of the island.

Q. So besides the wind you have a tide running into the bight?—A. Yes; right in. The wind drives the water right in and creates a strong current.

Q. How is the shore there, shoal or deep?—A. It is very shoal as a general thing along the whole of Prince Edward Island; between North Cape and Cape Kildare you cannot anchor within a mile of land, it runs off so shoal.

Q. Is there a bar up off North Cape?—A. There is what we call a three-mile bar at this point; and outside of that it is shoal, there being five fathoms of water.

Q. Taking one of our large ships of 100 tons, drawing from 8 to 12 feet of water, is it safe for them to go near North Cape in time of heavy weather?—A. A 100-ton vessel now draws from 12 to 14 feet of water.

Q. Is it safe for a vessel drawing from 10 to 14 feet of water to go there?—A. It is not. I would not call it safe to go within 8 or 10 miles off North Cape in a heavy gale of wind; and I would not like to be there then.

Q. How far did you drift off?—A. We went over North Cape Bar on Saturday night, in five fathoms of water.

Q. What was the reason?—A. We were there jogging along, the wind heading to the northeast, and then it came round to the east-northeast, and that was all that saved us from foundering. A number of vessels were seen near there that night which were never heard of after. One of them was the Colonel C. Mathews, of Southport, which had on board 130 barrels of mackerel. A large schooner from the Bay of Fundy was afterwards found ashore there, farther down.

Q. Would you have been safe at all if the wind had not shifted?—A. I do not think so; otherwise we would have gone ashore of a certainty.

Q. Did you make calculations for doing so?—A. Yes; the master was for running the vessel ashore, but one of the crew, James Pattillo, a Nova Scotian by birth, persuaded him not to do so. When we got half way over the breakers, we came on the other side into deep water—10, 12, or 13 fathoms—and as the wind shifted, we kept gradually drifting off. The wind was then about north.

Q. How many trips did you make in 1857?—A. Two.

Q. What did you catch on your first trip?—A. I think about five hundred barrels, which we landed at Arichat.

Q. And on the second?—A. We got somewhere about 225 or 230 barrels.

Q. Were any caught within the three mile limit?—A. No; we did not fish around Prince Edward Island that year, but on Bradley and Wyburn Banks, and up toward Gaspé.

Q. In what vessel were you fishing in 1852 and 1853?—A. In the *Isabella*, I think, on our shore.

Q. How did you do?—A. We did a fair business.

Q. When did you next go to the bay?—A. In 1854.

Q. How many trips did you make?—A. Two was to the Harbord.

Q. How much did you get on the first trip?—A. Somewhere about 240 or 250 barrels; and on the second 230, or somewhere about there.

Q. Did you take them both home?—A. Yes.

Q. Did you catch any of them inshore?—A. The first trip we took at

Byron Island; and the second between the Magdalen Islands and one of the outlying banks.

Q. In what vessel were you in 1855?—A. The Nourmahal. I was then master. The first trip we packed somewhere about 250 barrels, and on the second we only got 80 barrels.

Q. Did you go home with the first trip?—A. Yes.

Q. Did you catch any of either of these trips within three miles of the shore?—A. No; we took the first part of the trip up on Bank Orphan. Then we went to Bank Bradley and obtained the rest of the trip on the eastern part of this bank.

Q. Did you catch any fish off Prince Edward Island at all?—A. No; not that year.

Q. Were you in the same vessel in 1856?—A. Yes.

Q. How much did you catch that year?—A. Two hundred and sixty barrels.

Q. Did you take any of them inshore?—A. No.

Q. Did you make a trip before you came into the bay that year?—A. Yes; we fished on the George's Bank.

Q. In many of these years you passed the early part of the spring in that manner?—A. Yes; before we came into the bay, which would be about the 8th or the 18th of July.

Q. Is that very much the custom in Gloucester, to fish in the spring through February, March, April, May, and June, off the American coast, and then to come down here in July?—A. Yes; it was then, and it is so now, more or less. Other vessels that do not follow anything but the mackerel fishery, go earlier in the season to the bay, getting down here about the 8th or the 10th of June, and that is pretty early.

Q. Previously you fish on George's Bank?—A. Yes; and on our shore.

Q. And then the vessels come down here later?—A. I am speaking of the class of vessels in which I went; probably few bankers left Gloucester those years for the Grand and Western Banks.

Q. You were in the same vessel in 1857?—A. No. I was then in the Hiram Powers. No; I was for four seasons in the Nourmahal—in 1855, '56, '57, and '58.

Q. In 1857 and 1858, how many trips did you make?—A. On the first trip we got 260, and the following year 230 barrels.

Q. What did you do during the rest of the year in that vessel?—A. I was codfishing in the spring.

Q. On the American coast?—A. Yes.

Q. In 1859 you shipped in the Hiram Powers?—A. Yes.

Q. You then made two trips up here?—A. Yes; but we did not get much of anything.

Q. What did you get on the first trip?—A. We packed somewhere about 215 barrels, and on the second trip we packed about 25 barrels.

Q. Did you take the fish home?—A. Yes.

Q. Did you catch any fish that year within the three-mile limit?—A. No.

Q. In 1860 you were in the Hiram Powers; how many trips did you make to the bay that year?—A. One.

Q. How much did you get?—A. In 1859, we got 235 barrels; and in 1860, 180 barrels, I believe.

Q. How long were you in the bay in 1860?—A. Four months.

Q. How many trips did you make in 1861?—A. Two.

Q. How much did you get?—A. About 225 barrels, I think, the first trip, and about 75 barrels the second.

Q. For how many did you fit out?—A. From 310 to 315 each trip.

Q. And you carried your fish home?—A. Yes.

Q. Did you catch them with lines?—A. Yes.

Q. What did you stock that year in the bay?—A. In 1861, we stocked about \$1,000 altogether.

Q. You did not fish any at Prince Edward Island?—A. Not at all in that vessel.

Q. Did that pay?—A. I do not think that it did; the amount of stock on the first trip was something like \$700 or \$800, and half of that went to the crew.

Q. In 1862, '3, '4, '5, and '6, you were still in the *Hiram Powers*?—A. Yes.

Q. You were nine seasons in her?—A. No, eight.

Q. That was from 1859 to 1866 inclusive?—A. Yes.

Q. During all that time the Reciprocity Treaty was in force, and you had the right to fish where you pleased; but did you then fish at all within the three-mile limit?—A. We fished during the whole of that time in the vicinity of the Magdalen Islands; probably we might see the Cape Breton shore part of the time, and sometimes we would be in sight of Prince Edward Island.

Q. But though you had free right to then fish where you pleased, you did not fish within the three-mile limit?—A. No; for seven eighths of the time we were in sight of and within eight or ten miles of the Magdalen Islands.

Q. Why did you not fish close inshore at Prince Edward Island or elsewhere?—A. We fished where we could find the fish. We did not fish inshore at the Magdalen Islands because we did not find any fish inshore, but we fished off on the outlying banks; this was where we got most of our fish.

Q. You did not fish any at Prince Edward Island?—A. Not at all in that vessel.

Q. I suppose that you are not obliged to go and actually try at a place to learn whether fish are to be caught there? You have a great many means besides of finding this out?—A. Yes; vessels are coming and going all the time, crossing from Prince Edward Island to the Magdalen Islands, and from the latter back; and you may say that news is flying one way and the other all the time.

Q. Part of your business is to pick up news as quickly as you can?—A. Of course it is.

Q. You can tell whether mackerel are to be obtained in any place or not?—A. We can tell by the appearance of things. If we see a host of vessels coming from East Point towards the Magdalen Islands, we calculate that nothing is to be got over there, and so we stay where we are getting a few.

Q. In 1867 you went in the *A. M. Storey*?—A. Yes.

Q. In 1867 you were in the *Hattie M. Storey*?—A. Yes.

Q. How many seasons?—A. Eight seasons.

Q. From 1867 to 1874 inclusive?—A. Yes.

Q. Were you in the bay every year of those years?—A. I was not. In 1870 and 1871 I was on our own shore.

Q. In 1870 you were on the American coast. How much did you take there?—A. We got somewhere in the neighborhood of 200 or 300 barrels—say 800 packed barrels.

Q. In 1871 what did you get?—A. We caught about 700.

Q. Which did you do best in, there or in the bay? How did those two years on your own shore compare with the average in the bay last A.

We got more stock out of those two years than any seasons I went in that vessel.

Q. But still you went back to the bay?—A. Well, yes. I had everything to contend with on our own shores after that. The seiners would go on the ground, and I would not have as good a chance. So we took a trip in the fall in the bay. A number of these years I only went one trip.

Q. Because you had made your first trip on our coast?—A. Yes.

Q. In 1872, for instance, you made but one trip, I believe?—A. That was the year of the gale.

Q. Where did you go?—A. In '72? Where did we make harbor? At the Magdalens we lost our cables and anchors, and went to Port Hood.

Q. You could get into Port Hood?—A. We ran ashore on the beach. We had to beach her, as we had nothing to anchor her with.

Q. Now, in 1874—that was, I believe, the last year you fished, was it not? You got how many barrels?—A. I think somewhere about —

Q. Take the first trip?—A. That was somewhere about 290 barrels. The second trip was something about 220.

Q. Were you in the bend of Prince Edward Island at all?—A. We fished that year around Prince Edward Island altogether—from Fishermen's Bank, between that and Margaree, on the outlying ground.

Q. Not within three miles?—A. No.

Q. You were not in the bend of the island?—A. What we call the bend of the island is Malpeque. That is the deepest part of the island.

Q. Did you fish within three miles in 1874?—A. Yes; I did sometimes.

Q. Excepting that year did you?—A. I don't recollect catching fish anywhere within the three-mile limit except that year.

Q. How were the fish you did catch there?—A. Well, out of 300 headed barrels almost, at least 290 barrels, we only had 30 barrels of No. ones.

Q. What season was that?—A. It was in August, in the best season, when they should have been good fish.

Q. Since 1874 what have you been doing?—A. Working ashore.

Q. Now, you have had an experience of eighteen seasons?—A. Eighteen seasons, and two seasons that I was home, made twenty that I was master.

Q. And several seasons before you were master?—A. O, yes; I went on the water 35 years.

Q. You must be well acquainted with that subject. What is the safest part of the gulf as respects vessels in storms or gales?—A. The safest ground to fish in is the Magdalen Islands.

Q. Is that a settled opinion, do you think?—A. That is the settled opinion of any reasonable man that ever took any notice of the lay of the land. There is no place anywhere around there that you can get caught in there quick, to make trouble. There is always a chance, as we say, to scout. We can always run in under some lee or other. The extent of land from North Cape to East Point is 90-odd miles. By striking a line from North Cape to East Point you have a bend of 22 miles.

Q. It is the fixed opinion that the Magdalens is the safest place?—A. Of course.

Q. Now, what is the objection to the bend of Prince Edward Island, except, perhaps, in midsummer, when there is no wind?—A. It is one of the hardest places. If you get caught in there, let a gale come on

suddenly, east-northeast, or northeast, and the vessel that gets out there, if it is a long gale, has to have something more than sails.

Q. Suppose she is five or six miles from land; do you include that?—A. Well, I do, if it comes on a sudden gale. It is impossible for her to get out if there is a sudden gale. If that gale of 1872 had happened with the fleet there that was at Magdalen Islands there would not have been less than seventy-five or eighty sail lost. It began about 9 o'clock and by 12 it was blowing a hurricane.

Q. Do you know anything about what they call harbors of refuge?—A. Malpeque and Cascumpeque. Cascumpeque is no harbor. No American vessel of any size will go in it.

Q. Take the American vessels as they have been built for a number of years past. Suppose they are loaded to half their capacity?—A. Say from '67 to the present time, they draw all the way from eight or ten to fourteen feet of water.

Q. In a gale of wind how would the bar be?—A. You could not go. As soon as the breeze begins to come up, three or four hours after it begins to blow, you cannot go into Cascumpeque at all. It is not safe for a vessel drawing over seven feet of water. Malpeque is better. It is a very fair harbor compared with the other. Within the last eight or nine years it has become dangerous. Ground has made up exactly in the middle of the channel. There is only nine feet of water in it. I struck on there once.

Q. Does the bar shift?—A. No; but very little. At Cascumpeque it does.

Q. How do the people at Cascumpeque account for it shifting?—A. The northeast wind changes the shape of the bar.

Q. Does ice affect it?—A. I could not say.

Q. Now, when the mackerel attend inshore within three miles or so, what is that a sign of as to the fishing generally?—A. Well, when we find them right in among the rocks, we calculate to have a poor run of mackerel. As a general thing, when they are that way, the boats will get them when they cannot get enough for breakfast. The fishermen have a way of calling them eel-grass mackerel.

Q. Is the fact of mackerel setting in the sign of a poor year?—A. It is, as a general thing. When we get good catches we get them 10 deep water—a good fair depth.

Q. Did you buy any license?—A. I never did.

Q. Why did you not?—A. I thought the difference was not worth the money. I owned the half of one vessel and the whole of another. There are expenses enough without anything extra attached to the vessel.

Q. And you didn't try to fish inshore until after the Treaty of Washington went in to operation?—A. No; there was nothing to tempt me to fish inside. I have never known any fish except those last years I was fishing there.

Q. That was after the Treaty of Washington. You say the fish you saw there were poor?—A. Yes. I would state the amount of truck we got off these two trips. I didn't tell you about this last year. It was \$1,826 the vessel had, after all expenses of the voyage were paid, that is, paying for salt and bait, provisions, and everything. There was a little over \$900 to pay for her expenses.

Q. Do you include insurance?—A. No; insurance is not included.

Q. That left you \$900 odd to divide?—A. She had \$900 odd to pay for provisions, salt, insurance, and commission, provided the vessel was owned by outside parties, but she was owned by myself, and therefore

I take the commission out. I had a catch of 104 barrels—I and one of my boys. I lost \$500 besides the mackerel thrown in. She lost \$700.

Q. Now, when you speak of what a vessel nets at the time she divides, then half goes to the owner. He has to calculate not only insurance and repairs, if there are any—the average rate of repairs and sails—you have to have a new suit of sails once in two years, haven't you?—A. Generally.

Q. Now, take the cables. You used hemp. How long do they last?—A. Sometimes on the Georges they do not last over a year. We say two years; sometimes a little more.

Q. How long are they?—A. We had 150 fathoms. We should not trust the whole of that over two seasons. Part of it would be good and the rest bad.

Q. It would be between two and three years that it would last in the bay?—A. Yes.

Q. Besides the expense, there is interest on the cost of the vessel, and there is depreciation. Can you give the Commission some idea what the depreciation of those vessels is? Take any vessel—an average of vessels. I do not care about your own particularly, but you can judge from that.—A. Well, I run my own more economically.

Q. Well, take them as they are, managed with average prudence, and employed steadily, coming into the bay for a portion of the year, and for the rest of the year on the coast. How much is the natural depreciation?—A. I think 15 per cent. That is reckoning low. I reckon that, providing a vessel costs \$65 a ton, and you could build the same kind of a vessel for \$65 at the end of five years. But if you were going to reckon that a vessel cost \$65 a ton when she was built, and then take the vessel at the end of five years, when the building-material had gone down to about \$45, she has depreciated one-half.

Q. I don't mean to count that; suppose the price of material has remained the same, say it is 15 per cent. It is a short life?—A. Yes, everything is giving out.

Q. You have been cod fishing on the Georges?—A. Yes; all I ever fished was on the Georges.

Q. With hand-lines?—A. Yes.

Q. Where did you get your bait?—A. Well, the first year we used to get bait on the Banks ourselves. Latterly it got to be the custom to get it at Grand Manan and in Newfoundland.

Q. That is early in the season?—A. Then we have the poggy. At Grand Manan the bait does not last a long while.

Q. Have you been yourself to Grand Manan to buy bait?—A. I have been there to buy herring, but never to buy bait.

Q. You mean herring to sell again?—A. Yes; frozen herring to sell in New York.

Q. You were never there to get bait?—A. No.

Q. The vessels you have been in took bait from home and caught it?—A. As a general thing.

Q. You catch some bait going and coming and on the Banks?—A. We do along the summer months, in May and June.

Q. You have no personal knowledge about Grand Manan?—A. All I have about it is from going down to buy frozen herring.

Q. You know nothing about it as a place for fishing, for the purpose of getting bait for fishing?—A. No. I only know my vessels go down—one vessel would in the season. She would go there once between the time of the frozen herring and the time of what we call the poggy season.

Q. You find these pogies on the American coast?—A. Yes; about the 10th to the 12th of May. It continues to the fall of the year. We get them as late as November in Provincetown; sometimes as late as the 25th.

By Mr. Davies:

Q. The mode of supplying themselves with bait has changed, I understood you to say, of late years?—A. Yes, it has, of course.

Q. How is it now on the Banks?—A. I don't fish on the Banks.

Q. How is it with those that do?—A. Some, I suppose, go into Newfoundland. I was down year before last. One man belonging to Beverly hadn't been in there at all. He made a remark to me that this going in for bait was a kind of a bother. One man that spoke to me about it—he was a little temperate, I believe—he said if we could get along without coming in for bait we would do better.

Q. You know one man that didn't go in?—A. Yes.

Q. He was looked upon as a rather singular man?—A. Yes, in one respect. He got 2,200 quintals of codfish.

Q. I didn't ask you what he got.—A. I didn't know I was limited in my answer.

Q. You volunteered some conversation you had had with a particular person, and I asked if he was looked upon as a singular man in not coming in?—A. Not to my knowledge.

Q. Why was he selected from all the rest and spoken of as not having come in?—A. The reason was that he did so much better than other vessels by staying out.

Q. Do you wish to give the opinion that those that use salt bait alone do better?—A. That is my own opinion. I don't know anything about it. I have never been to the Banks.

Q. What has the general practice been for the last few years?—A. As a general thing, they go in for fresh bait.

Q. When you speak of bait taken on the Grand Manan, is it not the Bank fishers that take that bait in the spring?—A. Yes; the Cape Ann vessels go down one trip. Some do and some do not.

Q. Do most?—A. They do not. When bait is very scarce anywhere else, and there is no other resource, they go there. They don't like to go. It is a long distance.

Q. Still they go?—A. Yes.

Q. And they get bait?—A. I think they do.

Q. Is there good fishing at Grand Manan?—A. I don't know. It is not very good and not very bad.

Q. It is medium, is it?—A. Our vessels don't fish there.

Q. They go there to get this bait?—A. Yes; and go to the Georges.

Q. Do most of them go?—A. Very few. Some that can't get it anywhere else take the trouble to go down there.

Q. And when they can't get it there, do they go to the coast of Nova Scotia to get it?—A. I don't know.

Q. You never practiced cod-fishing much?—A. No; I never did, except when I first went skipper.

Q. You have never fished with fresh and salt bait?—A. Yes; the first year on the Georges I fished with salt bait.

Q. That is not what I asked you. Did you fish with fresh and salt bait both on the same trip?—A. Yes.

Q. Are you able to state whether the salt was as good as the fresh for catching?—A. The first season I went we used part fresh and part salt. As long as we didn't use anything else but salt bait we would get fish;

but after using fresh bait, and changing again to salt, we would not do so well.

Q. You say a vessel would prefer fresh bait to salt?—A. Of course, where it is generally used, but when I went and we used salt bait altogether I didn't see any difference.

Q. But supposing they have an opportunity to fish with fresh bait, will the fish prefer that bait to the salt?—A. I never used enough to make a fair statement.

Q. You have told me that when you were fishing with fresh bait and used salt bait again they would not take as well. You were speaking of the very voyage when you had both. You told me that when you had been using fresh bait you could not catch any with salt; is that correct. Do you adhere to that statement?—A. Yes; I do.

Q. Then the fish, in your experience, prefer fresh to the salt bait; they would not take the salt when they could get fresh?—A. I would not say so in all cases.

Q. That is in your experience?—A. My experience is very limited.

Q. Why do you object to answer?—A. I have no objection to answer. It does not interest me at all. When we had a little fresh bait and used it we caught a little more fish, and when we turned again to salt bait they would not take it quite as well.

Q. How long does one of those mackerel vessels last; would 20 years be considered a long period?—A. It would. We generally calculate that at ten years she is getting along.

Q. Don't you know there are mackerel fishers in the gulf and have been that are twenty years old?—A. I don't doubt it in the least.

Q. Many of them?—A. I don't think so. They are few and far between. They cannot get crews.

Q. Ten years would not be considered old?—A. When she is ten years she is called an old vessel. Still they use them, of course.

Q. Up to 15 or 20 years?—A. Probably there are vessels from Gloucester 15 years old, but very few of them. I could not enumerate them, because I do not keep a list.

Q. What did you do with the Hiram Powers after she had been eight years fishing?—A. I sold her to the firm for \$4,800.

Q. What did she cost new?—A. Somewhere about \$4,000.

Q. You sold her for that when she was eight years old?—A. Yes.

Q. Her age did not seem to depreciate her value much. What did you do with the Hattie M. Story after she had been fishing from 1867 to 1874?—A. I sold her for \$4,500. She cost me \$8,800.

Q. What was the reason for her depreciating so much?—A. Shipping cost \$65 a ton when she was built, and only \$43 a ton when she was sold.

Q. Was it because she got old that she sold for so much less? Wasn't she considered almost as good as new when you sold her?—A. Well, she was in a good condition. The difference was not in the age of the vessel—it was in the rise and depreciation of the property.

Q. We perfectly agree that a vessel eight years old is about as good as one newly built. Your evidence is that?—A. She was just as good in the rise of property, not in the value of the vessel.

Q. You said it was not because she was any worse. A moment ago you wished me to understand that the Hiram Powers was not much worse when you sold her than when she was built. Is a fishing-vessel much worse at the end of eight years than when she is built?—A. Of course. She was eight years old, and when a vessel is eight years old she does not command the same price as a new vessel. The price I got

for her was due to a factitious rise in property because vessels were in demand.

Q. Just as a fall in the value of the property depreciated the value of the Hattie M. Story?—A. The vessel was not so good of course.

Q. Now I will ask you a question or two about the cost of a voyage. I will take the example you give us, the year 1874, when you got 510 barrels. Now you say your net stock was \$1,826, after paying expenses. What expense do you deduct?—A. Packing, bait, and barrels; you can say bait and packing.

Q. Now \$900 went to the vessel, and the other \$900 to the crew?—A. Yes.

Q. So the crew had \$900 divided among them. How many men were on board?—A. Fourteen.

Q. How long were they out?—A. From the 4th June to the 20th November when we got home.

Q. Were you in the Bay St. Lawrence till the 20th November?—A. We were some time going home.

Q. Will you say you were in the bay on the 1st November?—A. I don't think we were in the bay on the 1st November. I think on the 25th October we started for home.

Q. Of that \$900 what do you say has to be paid?—A. Provisions.

Q. What will that cost? You know; it was your vessel I suppose.—A. Between \$600 and \$700.

Q. That is for the two trips?—A. From the 4th of June to the 10th of November, or about those dates. The provisions cost \$600.

Q. Are you quite sure?—A. That is as near as I can guess.

Q. Have you no memorandum?—A. No.

Q. No means of judging?—A. No; because the last two years I was in the firm I did not take the trouble. I think the cost was \$400 the first trip and \$200 the second.

Q. Then you say you must have a new suit of sails every two years?—A. Yes; we have to have sails, rigging, and cooking utensils.

Q. Then your result from that catch would not much more than pay the vessel's expenses?—A. I lost between six and seven hundred dollars.

Q. Now, just give me the catches for the years Mr. Dana omitted to ask you about. You gave us from '61; have you a memorandum in your pocket?—A. I have it in my head.

Q. I asked you if you had it in your pocket—you have it on paper?—A. Yes.

Q. Will you give it to me?

Witness produces memorandum, from which Mr. Davies reads:

In 1862 you caught 590 barrels; in 1863, 500 barrels; in 1864, 500; in 1865, 280; in 1866, 200; in 1867, 459; in 1868, 150; 1869, 221; in 1872, 253; in 1873, 410; in 1874, 498.

Q. Now, captain, in the year when you took 570 barrels you lost \$700?—A. That is 1872.

Q. I thought it was 1874?—A. Yes, 1874; you are right; the very last year I went.

Q. You lost your cables in 1872?—A. Yes.

Q. I am correct?—A. Yes.

Q. In 1874 you lost \$700. I presume that you are a poor man. I don't want to ask impertinent questions, but I presume you must be a very poor man.—A. How poor do you think?

Q. I would not like to say, because if you lost \$700 with a catch of 510 barrels, I don't know how much you lost when you caught only 150.

—A. Well, would you say a man who has followed the sea for thirty-five years was rich at \$4,000?

Q. No.—A. Well that is what I am worth. The last year satisfied me I was losing what little I had, and I gave it up.

Q. I dare say you will understand presently why you were losing. In 1874 you knew you had a right to fish anywhere?—A. Yes; I did.

Q. Did you exercise that right?—A. I did.

Q. You fished inshore and out of shore?—A. Yes.

Q. I understood you to answer Mr. Dana that in 1874 you caught your fish around Margaree and in the bend of the island?—A. I did not say any such thing. I told him I got 150 that year inshore.

Q. I didn't ask you with reference to inshore at all. I understood you to say you fished altogether around Prince Edward Island and Margaree in 1874?—A. Yes; I believe it was 1874.

Q. I was right?—A. Yes.

Q. In that year you caught all your fish around Prince Edward Island and Margaree?—A. Yes; sometimes in sight of Margaree.

Q. You had a right to go where you liked. Now, did you or did you not pay any attention to the quantities you took inshore or outside in that particular year?—A. I did not.

Q. And have you had any reason to divide the quantity you caught inside from that caught outside; there has been nothing to induce you to recollect what you caught inside as against those taken outside?—A. I didn't keep any account. All I noticed—

Q. You cannot keep them separate?—A. All I noticed was that those we caught inshore were a good deal poorer than those we took outside. Whenever we caught close in we got a poor quality.

Q. Would you like to swear that you didn't get three-fourths within three miles?—A. I would swear to it.

Q. Although you had no reason to watch?—A. Of course. Is it not natural we should take notice where we were? For instance I can tell you we caught such and such a trip at such and such a place. We would notice where we got good catches, and would probably go there again.

Q. Give me the proportion you caught within three miles?—A. I think we got 150 barrels within the three-mile limit.

Q. Don't you think more?—A. I think not.

Q. How many did you get about Margaree?—A. Very few. Nearly all around Prince Edward Island. What we call Fisherman's Bank to Second Chapel. Once we were in Malpeque Harbor. That was not very stormy that year. We had the wind easterly around the point.

Q. Although you were there that year you returned all right. You were not drowned.—A. That does not signify.

Q. As a matter of fact your vessel did actually escape that year?—A. Yes. That does not signify it is not dangerous.

Q. Not at all. Do you know any vessel that got ashore that year on that dangerous coast?—A. Don't they often go ashore in safe and pleasant weather? Anybody can get off then.

Q. Do you know any vessel that got ashore that year in Prince Edward Island?—A. Not to my recollection. There might have been a dozen.

Q. Why do you say there might have been?—A. A vessel would likely go ashore there in calm, in misty or foggy weather, she might go ashore any time.

Q. You think it is very likely?—A. Yes.

Q. Would you not have seen a report of it if any of your vessels had

gone ashore?—A. There was other vessels in the bay beside American vessels.

Q. Did you hear of any fishing-vessels going ashore that year on the island?—A. I might have heard it; I don't recollect.

Q. You were not fishing there any other year on the island coast except 1874?—A. The year before we fished around there, but off shore.

Q. Did you fish around the island in 1873?—A. We did some, part of the year.

Q. Did you catch any inshore?—A. No.

Q. In 1872 you lost your cables and anchors at the Magdalens, that calm and beautiful place where it does not blow at all?—A. Well, it may not be so moderate.

Q. Is it as moderate as Prince Edward Island?—A. In the latter part.

Q. Take it all through?—A. There is very little difference.

Q. You don't think it is more boisterous?—A. I don't think. There are plenty of times you can fish at the Magdalens when you can't at Prince Edward Island.

Q. Did you say you were around the Prince Edward Island shore any other year than 1873?—A. Not to my knowledge. I might probably go there once in a while.

Q. During all the years you were in the bay, from 1851 downward, do you know of any American vessels going ashore, leaving out the gale of 1851?—A. There was another gale in 1861. That is the Yankee gale.

Q. No, that is the gale of 1851. Did you or did you not know of any American vessels being lost on the Prince Edward Island coast from 1852 to 1874?—A. That includes the last gale.

Q. Not the gale of 1851?—A. It includes 1861. You say from 1852 to when?

Q. To the time you went out of the gulf.—A. That includes—that would be to 1874. Yes, I do.

Q. American vessels? Give the names.—A. I could not exactly say the names. One vessel went ashore right close to the point. The other one was the Atwood, I think, owned by Ayers & Co. She went ashore. One of them was got off by parties in Souris. And the other was sold to parties there.

Q. Those are the two?—A. Yes.

Q. And these are all you know of?—A. I don't know of any others. There might be a dozen; I don't know.

Q. I asked you simply what you knew. You know for the last 25 years of two vessels, one of which was got off—both of which were got off, and one of them sold. Do you know of any going ashore in 1861?—A. Yes, a number. The Golden Rule.

Q. I speak of being lost?—A. I could not say whether she was lost or not.

Q. I don't mean to speak of vessels touching the shore, but driving ashore and being lost.—A. Well, I don't know what you mean by touching the shore. I guess if you were the owner you would not speak of them as touching the shore.

Q. Were you there fishing?—A. I was in the bend of the Island.

Q. Fishing? You told me before you never fished in Prince Edward Island.—A. I never told you so. I said when I was skipper.

Q. I asked you most distinctly whether you had ever fished around the Prince Edward Island shore except in 1874 and 1873, and you told me you didn't. You denied it.—A. I didn't deny it. You were question-

ing me as to the time when I was skipper. I deny anything of that description.

Q. Do you deny you were skipper in 1861?—A. I deny I was skipper in 1861.

Q. Then deny that you were skipper of the Hiram Powers in 1861?—A. I have got things mixed now—1861—No, I don't. I was thinking of 1851.

Q. You were wrong 10 years. That is just what I thought.—A. In 1851 I told you I knew vessels going ashore.

Q. In 1861 you were master of the Hiram Powers?—A. That is right. I got a little mixed up.

Q. Then you were fishing in the bend of the island?—A. No, I was not.

Q. In 1851, were you in the Hiram Powers at all?—A. I was in another schooner, the Alexander.

Q. Now, you said you never took out a license?—A. I never did.

Q. Your reason was that it was not worth while?—A. No, I did not want to go to the expense.

Q. It was not worth while, and the privilege it would confer you did not consider worth what it would cost. Are you of that opinion now?—A. Yes.

Q. Was that opinion shared by the American fleet generally?—A. The opinion of the American vessels was that it was no benefit, the three-mile line, that is, the privilege of fishing within the three-mile line.

Q. Have you any doubt about that?—A. No.

Q. Would you be surprised to know the opinion was directly the opposite of what you state?—A. I would be surprised.

Q. Very much?—A. Yes.

Q. Well, I will surprise you. In that year, 1866, there were taken out by American vessels 592 licenses. So 592 captains there seem to have entertained a different opinion from yours.—A. That was only for safety.

Q. How do you know? Did you consult each one of those captains and ask if that was the general opinion?—A. I came in contact with those men every day I was in Gloucester.

Q. What do you mean when you say they took those licenses for safety?—A. If they were three, four, or five miles off they would not know for a certainty whether they were five or three miles. If there was a cutter coming in and they had a license there would be no trouble, but if she happened to make up her mind they were within she would bother them.

Q. Do you think a cutter would capture a vessel five miles out?—A. Yes; that is, not thinking but what she was doing right. One man might say it was five miles, when another would not think it was.

Q. But if the vessels fished where you described, on Bradley and Orphans and at the Magdalens, hardly within sight of land?—A. Well, probably other vessels went inshore.

Q. Do you believe other vessels did go in?—A. I don't believe anything about it. As a general thing, those years I was there the best of our vessels were at the Magdalens.

Q. Do you think any of these vessels that took licenses didn't go inshore?—A. I think so.

Q. Can you name one that did not?—A. Well, when a vessel would come along we would ask if he had been to the Bend, he would say yes. We would ask if he found anything there, and he would answer no.

Q. Was that the invariable answer?—A. No; of course not.

Q. When the answer was favorable did you run over?—A. Not generally; we kept around the Magdalens.

Q. When you heard it reported that they were doing well, although you were making such very small catches in the gulf, did you not run over?—A. What particular year do you mean?

Q. I don't care what year.—A. We never fished in Prince Edward Island the latter part of the season.

Q. But you have given us your catches?—A. Yes.

Q. Do you wish this Commission to understand that when you heard the fishing was good at Prince Edward Island you would not go?—A. Of course I would go if I knew there was better fishing.

Q. Did you never know it was better fishing until '74?—A. Never inshore.

Q. Did you ever hear of good fishing in the Bay Chaleurs?—A. Very little; in the spring we would sometimes.

Q. Then it would surprise you also to know that a large number of the fleet were in the habit of frequenting Bay Chaleurs?—A. I have been there myself.

Q. Why didn't you give Bay Chaleurs among the places where you had fished?—A. We never fished there, but probably staid a day or two, and came out. I have been there in the course of my being skipper twice. One season we fished at the mouth of Bay Chaleur, at Miscou—on Miscou Bank.

Q. Did you ever fish in Bay Chaleur within three miles?—A. I never did.

Q. Therefore you never saw any fish there? When you fished outside you never caught any fish in the Bay Chaleur? When you fished within three miles in the bay did you catch any fish?—A. I never did, only a few, because we never fished there.

Q. You told me you were there one season?—A. I didn't say so; I said on Miscou. I recollect for instance catching a few half-way between Miscou and ———, 15 wash barrels.

Q. You say your business on the American coast used to be better than it is now. You said you were on the American coast from 1843 to 1854, and that it was a better business then than now. You fished on the Georges Bank. You call that the American shore?—A. That is 135 miles off.

Q. In 1842, when you commenced to fish, Gloucester, you say, had no fleet to speak of?—A. It was very small.

Q. Was it a small town in 1842?—A. I could not say how large it was then. It is 19,000 now. I can tell you something about the business of the town.

Q. Can you give us an idea of what it was then?—A. The population then might be 3,000 and it might be 6,000.

Q. It has been built up since then?—A. Yes. I suppose there are six times the fishing firms now that there were then:

Q. The Gloucester fleet now numbers how many?—A. Somewhere about four hundred sail of fishermen.

Q. Do they frequent the Bay of St. Lawrence?—A. Some of them.

Q. Have they been in the habit of frequenting the bay?—A. Yes; more or less every year.

Q. What number have they averaged? 300 or 400?—A. I don't think they have. I don't think over 175 vessels from the bay at one time. But you might know exactly, while I would not.

Q. If you tell me that you have not the means of forming an opinion

that will be the end of it.—A. I should say there were 175 some years in the bay.

Q. Did you ever take means to ascertain whether that is correct or not?—A. No; I judge from what I have seen.

Q. How many have you seen in one spot together?—A. At Port Hood I have seen as many as 200 sail.

Q. Mostly Americans?—A. All descriptions.

Q. Were they or were they not mostly Americans?—A. Probably a hundred and fifty sail were Americans.

Q. What were they doing at Port Hood? I thought you always fished about the Magdalens and Bradley Bank?—A. We don't always. When there is a gale of wind probably—

Q. What? Would you leave this fine, safe place and run down in a gale of wind? Would you leave this harbor of refuge and come down to Cape Breton to get a harbor?—A. No, I did not. They did not run across exactly to make harbor. They gather from different points. Probably they would find the fish scarce, and go in to get fittings and make a harbor.

Q. Could they get fittings there?—A. They could get anything they want there, water, wood, or any little thing.

Q. What do you mean by fittings?—A. Wood and water.

Q. Do you class them as fittings? Did you mean that when you made use of the word "fittings"?—A. Yes; that is part of the fittings.

Q. Didn't you mean rigging, sails, and things of that kind?—A. No.

Q. Where would they be fishing when they would run into Port Hood?—A. Off Margaree, probably.

Q. Were you among them when they were fishing off Margaree?—A. Sometimes. In the latter part of the season we would be fishing between Margaree and Cheticamp, and, if it was stormy, work into Port Hood.

Q. In the latter part of the season you would probably be fishing between Margaree and Cheticamp and then work up into Port Hood?—A. Yes.

Q. And you say that would probably be the case?—A. Probably it would.

Q. And then not one of them ever was fishing within three miles?—A. It is not very often they fished in so near as three miles. The fish would not attend.

Q. How often have you been fishing between Margaree and Cheticamp?—A. Never but very little. I fished there once in the Henry.

Q. When were you again between Margaree and Cheticamp?—A. That is all, to my knowledge, I ever fished.

Q. If you have never been there but once how can you hazard the statement that the fish would not be there? How do you know if you did not go there to fish?—A. I am judging from what I heard from parties. The general report was that they never caught any fish. They fished right off what we call the northeast part of the island.

Q. You knew Captain Layton?—A. Yes.

Q. He said that with the exception of one time he caught all the fish he took at Margaree within three miles?—A. Probably he might.

Q. How so, if they are not there?—A. They might be there. As a general thing they are not within three miles.

Q. How do you know if you were not there?—A. Other vessels go in and say, probably, they are not there.

Q. Tell me a man who told you that fish were not taken within three

miles of Margaree?—A. I have probably heard it a dozen times, but never bring it to mind.

Q. Now, perhaps we can reconcile this. Perhaps your statement can be reconciled with that of Captain Layton. I include, when I speak of three miles, three miles from Margaree Island, as well as three miles from the mainland. Do you mean that?—A. When we fish we fish four or five or ten miles from the back side of Margaree.

Q. When you say they didn't fish within three miles, did you include Margaree Island as well as the mainland?—A. Of course I did.

Q. You base it upon hearsay?—A. That is the general opinion. We go by the boats as much as anything else, and they would not go off the northwest part of Margaree for fish if there was any mackerel inshore. It would not be necessary.

Q. How far from shore do they fish? From the island?—A. All the way from two and three miles up towards Broad Cave.

Q. Don't they fish within a quarter of a mile?—A. They come right in, for all I know.

Q. Now, you stated that on your shore you had everything to contend with some years—that the seiners occupied the ground?—A. Yes; the last year I was there.

Q. Why were they a nuisance to you?—A. I have always fished with hook and line, being a little behind the times. I did not care, being along in years—I thought if I could get along without using the seine I would do so.

Q. Why were the seines objectionable?—A. Because they fished where we did. They occupied all the grounds. They were setting seines where we were.

Q. Is the purse seine a destructive kind of fishing or not?—A. It catches the fish up very fast.

Q. Is it destructive to the fisheries?—A. I think it is the worst thing that ever could be for mackerel.

Q. Is it your opinion that it destroys the fishery?—A. I think it does.

Q. It kills a good many fish?—A. Yes.

Q. When a man fishes with the hook he has everything to contend with the seiners?—A. I think it kills the fish up and makes them scarce.

Q. Do I understand that in your opinion, it destroys the fishing ground?—A. It makes the fish scarcer, yes.

By Mr. Dana :

Q. In the year 1874 you told me you caught 278 barrels in the first trip; and in the second how many, do you remember?—A. I think somewhere about 200. We packed 498 barrels that season.

Q. How many of those did you catch at the Magdalen?—A. Very few. I was there once.

Q. State as nearly as you can.—A. I should think twenty barrels.

Q. Now, taking twenty from 498 barrels, where were the rest caught?—A. At Prince Edward Island—off around what they call Fisherman's Bank, and East Point the second trip. Once I was at Malpeque Harbor. That is all, but didn't catch any fish that way.

Q. What parts of Prince Edward Island did you say you caught fish?—A. At Fisherman's Bank. That is abroad off Georgetown, some eight or ten miles, some a little farther down, what they call East Point, east-southeast from the point, then at Second Chapel.

Q. You were asked some questions about the general opinion as to

licenses or the value of licenses. What do you say was the general opinion of the masters as to having licenses?—A. They didn't think they were any value at all—only to protect themselves in case they were not dealt with just squarely. They thought they were best to be on the sure side.

Q. Now, you have heard this talked over and the reasons given, have you?—A. Yes; I have.

Q. Those who did think it safe to have them, or convenient to have them, didn't consider them really as of much value?—A. They thought it would save them from trouble when they came into collision with the cutters. They were uncertain how far they were off.

Q. Now, is it difficult at sea to determine your distance from the land?—A. It is, especially with high land. It is very deceiving.

Q. Explain how that is, and to what extent an honest man, who wishes to know how far he can go with safety to his vessel—I don't mean from cutters—may be deceived by the appearance of the land?—A. Plenty of men have thought they were within three or four miles when they were not within six or seven.

Q. Take your own experience. If you have high land, have you had experience of being deceived in that way, thinking yourself very near and finding yourself double the distance you supposed?—A. Yes, I have.

Q. Is that common with seamen?—A. Yes; it is common. The coast of Cape Breton is bold, and at Prince Edward Island it runs up pretty abruptly at Malpeque.

Q. Suppose the land is low, a sandy beach and low-lying country, and you have your vessel near, are you liable to make a mistake, and which way?—A. Well, you can generally tell pretty near how far you are off.

Q. If you make a mistake, which way will it be likely to be if the land is low?—A. We would think we were too far off, when we would be too nigh.

Q. Is the liability to mistakes a common and recognized thing?—A. It is. I will state an instance. We were fishing off East Point the last year before the treaty, 1872, was it not? and were catching fish in the morning. I supposed for a certainty I was not much more than three miles off, and I saw a steamer coming along. I didn't know whether I was safe or not. I did not know what to think. I had no license, and felt afraid. When he came along he went outside of us over a mile.

Q. Did he say anything to you?—A. He never said a word.

Q. And you don't know now whether he was running on the three-mile line or not?—A. He was not running on the three-mile line.

Q. Mr. Davies said your catches in the bay had been very small and yet you had not tried to go inside. Are those catches very small?—A. No; they are a fair average.

Q. Do you call that catch in 1862, when you caught 290 and 280 barrels, a small one?—A. I do not. That was a good catch.

Q. In 1863 you had 280 and 215. Was that very small?—A. No.

Q. In 1864, 284 and 215, how was that?—A. That is the very best year.

Q. In 1865 you had 285 and 215?

Mr. DAVIES. That is not the statement he gave me.

Mr. DANA. Look at 1865. Take the paper or your memory, I don't care which, only give me a correct answer. How many trips did you make in 1865?—A. Two.

Q. What did you catch?—A. I think about 500 barrels.

Q. Is that very small?—A. No.

Q. Take 1866, 280 and 220. That is just 500.—A. That is for the season. That is pretty good.

Q. In 1868 you went in late ?—A. I made only one trip.

Q. In 1872 you made one trip ?—A. Yes.

Q. In 1873 you took 480 in two trips. Is that a very small catch ?—A. That was a good fair catch in proportion to the rest.

Q. In 1874, so far as numbers were concerned, you had 493 barrels. Is that very small ?—A. It was called a very good catch for the season.

Q. Now, I have been over every trip from 1860 to 1874. There is no one you call a very small catch ?—A. Not for the season. I always got a very fair catch for the fleet.

Q. Now, Mr. Davies having based a question upon that, do you say that the catches have been very small in the bay ?—A. I do not. Always, as a general thing, I got good fair catches of fish.

Q. One point more. You say you went to Miscou Bank. Is that in Bay Chaleurs ?—A. It is not in Bay Chaleurs at all.

Q. Where is it ?—A. It lies right off Miscou Point, one of the points of Bay Chaleurs.

Q. Then you don't see any inconsistency in saying that when in Miscou Bank you were not in Bay Chaleurs ? You were not up Bay Chaleurs ?—A. I don't recollect it.

Q. Did you say you knew of no fish caught inside of three miles off Margaree ?—A. I did not.

Q. Did you say anything like that ?—A. No, I said very likely there was mackerel caught within three miles. They might be right on the rocks for all I know, but I never caught any.

Q. One more question. Were you conscious of intentionally evading questions put by Mr. Davies ?—A. I came here to tell the truth.

Q. Were you conscious of intentionally evading questions put by him ?—A. Not at all. I came here to tell as near the truth as I can tell.

Q. Did you always understand his questions in the form put ?—A. No, he talked to me so sharp. It is the first time I was before a court, and it is difficult for a person, especially where a man is trying to bore right into you.

Q. You were supposing the questions to be put for the purpose ?—A. They were put to bother me and disconcert me.

Q. I only asked if you understood his questions ?—A. I did not. I know what a cross-questioning means.

Q. Look at the paper and tell what is the correct catch as regards 1865 ?—A. About 500 barrels.

Q. That is not what is there.—A. In 1865 280 barrels. If I had been asked the years in the bay in succession, I could have given every one promptly, but when you take certain years and cross-examine a person, it is different.

By Hon. Mr. Kellogg :

Q. You spoke of a line from North Cape to East Cape and the distance from the Magdalen Islands down to the deepest bend of Prince Edward Island. What is it ?—A. I think about 22 miles.

No. 24.

JOHN H. GALE, of Gloucester, Mass., packer and deputy inspector of mackerel for the city of Gloucester, called on behalf of the Government of the United States, sworn and examined.

By Mr. Foster :

Question. How old are you ?—Answer. Forty-three years.

Q. And your business of late years has been that of deputy inspector of mackerel?—A. Packer and inspector of mackerel.

Q. Have you some of your books with you?—A. I have.

Q. Turn to the account of the trip of the James Seward in 1857. I will ask you, before you begin to read the trip, if you know Wm. McDonnell?—A. I know him well.

Q. By what name did he go on board?—A. Bill Mack.

Q. You have no doubt about the man?—A. Not in the least.

Q. He was on board the James Seward?—A. Yes, my memory is perfectly clear about the man.

Q. Read the entry of the trip from your book.—A. Schooner James Seward, September 8, 1857, packed 242½ barrels of mackerel. Wm. Mack caught of that trip 21 barrels No. 1 mackerel, 85 pounds of No. 2, and 10 pounds No. 3. These were packed barrels.

Q. What is the difference, on an average, between sea barrels and packed barrels?—A. We reckon ten per cent.

Q. McDonnell's statement was that James Seward was a 300-barrel vessel, and got two full fares. Did James Seward make a second trip?—A. Yes, two trips that year.

Q. What was the second trip?—A. She packed out on November 20, 1857, two hundred and five and three-quarters packed barrels.

Q. We will now take the Mohenia, of which Macdonnell was captain in 1865?—A. I have the statement.

Q. Give it.—A. The Mohenia packed, September 2, 1858, 162½ packed barrels. William Mack was captain.

Q. Take the second trip of the Mohenia that year?—A. On December 4, 1858, she packed out 154½ packed barrels. Wm. Mack captain.

Q. McDonnell's statement about the Mohenia was as follows:

Q. What fares did you take?—A. I think about 150 barrels the first trip and perhaps 300 barrels the second trip. It was a 300-barrel vessel and we generally got fares.

Mr. DAVIES asked how the statement of McDonnell fixed the year.

Mr. FOSTER said the testimony of McDonnell was as follows:

Q. You afterwards became captain of the vessel?—A. Yes.

Q. What vessel?—A. The Mohenia.

Q. What was the size of the vessel?—A. About 75 tons, I think.

Q. How many trips did you make?—A. Two.

Q. What fares did you make?—A. I think about 250 barrels the first trip, and about 300 barrels the second trip. It was a 300-barrel vessel and we generally got fares.

The fair inference is it was the first year he was captain. That is what I assume.

WITNESS. Those two years are the only two Macdonnell was captain of the Mohenia. I owned part of her and my partner the rest.

Q. Take 1859, the same schooner.—A. I have the statement.

Q. Read the result.—A. November 25, 1859, Mohenia packed 193¾ packed barrels.

Q. Did she make in 1859 more than one trip?—A. Only one trip; mackerel were very scarce that year.

Q. Macdonnell's statement reads:

Q. The next year, I believe, you went again in the Mohenia?—A. Yes, we made two trips.

Q. With similar results to those of the previous year?—A. About the same.

WITNESS. The first year he was to my knowledge skipper of the Mohenia he went two trips to the bay with the result stated, and the next year one trip in the bay. He was never afterward, or before, master of the Mohenia.

Q. Turn to the S. A. Parkhurst, in 1866. Peter Deagle's statement in regard to it was as follows :

I fished in the Safronia from Gloucester, and that season we caught 700 barrels. The next year I was in the S. A. Parkhurst, and we caught 600 barrels.

Q. Give me the voyage of the S. A. Packhurst in 1866.—A. November 9, 1866, schooner S. A. Parkhurst packed 310½ packed barrels.

Q. Do you know Deagle ?—A. I did know him. I have no very definite recollection of him.

Q. Did she make more than one trip that year ?—A. No. On Nov. 9 the trip was packed. That is correct with the settlement we made with him.

Q. You have a statement of the settlement of Deagle and a statement of the settlement of William Mack ?—A. Yes.

Q. As you are mackerel inspector I should like to have you state exactly what net stock is. As you have shown me in your books the settlement of one of Captain Layton's voyages in the Rattler stated very distinctly, I will ask you to read it and put in a copy.

Witness read following statement from his book :

GLoucester, November 4, 1865.

Schooner Rattler packed :	57 bbls. 80 lbs. mess mackerel, at \$20....	\$1,148 00	
	441 bbls. 55 lbs. No. 1 mackerel at 17....	7,501 67	
	16 bbls. 55 lbs. No. 1 mackerel, at 13....	211 37	
	9 bbls. — lbs. No. 3 mackerel, at 10....	90 00	
			\$2,951 04
Packing at \$2 per barrel.....			1,047 90
			7,903 14
69 barrels sliver, at \$7.....		483 00	
7 barrels clams, at \$10.....		70 00	
Filling water		70	
Hoops and flags.....		3 00	
Labor on bait.....		2 50	
Storage on bait.....		1 50	
			560 70
			2)7,342 44
			3,671 22

That sum of \$3,671.22 is divided among the crew. There are other expenses which come out of the crew. Originally the crews used to cook by turns. Now they agree among themselves, and have done so for years, to have a man to cook and engage to pay him, so that when we make up the trip we have to take off the pay of the cook, which comes out of the crew and not out of the vessel. The statement was made up by me in order to settle with the crew of Captain Layton's vessel, he having packed the Rattler with me.

By Hon. Mr. Kellogg :

Q. Was it made up by you as inspector ?—A. No ; as packer. In Gloucester each firm has its own inspector when they carry on business and own vessels and pack other vessels, as it is necessary that one of the firm should inspect in order to take care of their own mackerel. In Newburyport there is a State inspector, who goes about in his official capacity and inspects mackerel for everybody, but in Gloucester the custom is different.

By Mr. Foster :

Q. Will you now take a settlement with one of the crew and read it ?
—A. I will take the settlement with Captain Bearse.

Q. Does the captain have one man's share?—A. Yes; with a percentage for being captain.

Q. That percentage comes out of the vessel?—A. Yes.

Q. He has an advantage in the place from which to fish?—A. Yes.

Q. What is that?—A. He has the first pick of the berths to fish from.

Q. Explain it.—A. Of course the captain has the choice of the place where he will stand and fish from, and he takes the best place. He also throws the bait, which is additional trouble. The others draw lots for choice.

Q. Take the captain's settlement; I suppose those of the rest of the crew are just like it?—A. Yes; every man gets half of the price of the mackerel he catches, after expenses are taken out.

Witness then read the following statement:

GLoucester, November 4, 1865.

Schooner Rattler (Benjamin Bearse) packed 4 bbls, 105 lbs., mess mackerel, at \$20.	\$90 50
25 bbls., 165 lbs., No 1 mackerel, at 17.	439 02
60 lbs., No. 2 mackerel, at 13.	3 90
100 lbs, No. 3 mackerel, at 10.	5 00

538 42

Packing, at \$2..... 62 30

2) 476 12

238 06

Bait and cook..... 26 83

211 23

Q. How much is received by the owners of the vessel for the whole voyage?—A. \$3,671.22.

Q. What have the owners to pay out of that, or what has been paid?—A. They have to pay for the vessel, wear and tear, insurance, fitting out, provisions, and all other expenses that a vessel is liable to incur.

Q. What do you mean by fitting out?—A. Provisions, Manila rope, anchors, &c.

Q. They pay for the charter of the vessel?—A. The use of the vessel.

Q. The owner has to pay for wear and tear, insurance, fitting out, which includes provisions, and what else?—A. Ship's tackling, sails, anchors, ropes, cooking-utensils, and everything that is used.

Q. How is the salt paid for?—A. The salt which is put on board the vessel is paid for by the vessel, and is included in the outfit.

Q. No part of that is included in packing?—A. No. When we repack the mackerel from sea barrels to barrels for market we use salt, which is included in the \$2 per barrel for packing; but the salt which goes on board to keep the mackerel until they come in port is paid for by the owners.

Q. That particular voyage was settled on when?—A. November 4, 1865.

Q. Does it represent the number caught for the whole season?—A. No, there was another trip in the same vessel.

Q. That was a great year?—A. Yes.

Q. The Rattler made another trip the same year?—A. There was another trip which the Rattler made the same year.

Q. That was the end of the season?—A. This is the trip which she brought home.

Q. Was that an uncommonly profitable voyage?—A. It was. It was an uncommonly profitable year and voyage.

Q. It was an extraordinary voyage?—A. Yes, an extraordinary voyage.

By Mr. Davies :

Q. What position did you hold in Gloucester at the time of which you are speaking ?—A. I was a packer and inspector of mackerel.

Q. In Mr. Layton's firm ?—A. No.

Q. You had no connection with Mr. Layton's business ?—A. No, except packing his mackerel.

Q. Was packing and inspecting fish a distinct branch of the fishing business, and had Mr. Layton no interest in it ?—A. No interest at all.

Q. These are your own books as a packer and inspector ?—A. At that time I was in the employ of D. A. Parkhurst as his clerk ; he was inspector.

Q. Is it the custom for men to inspect their own fish there ?—A. Yes.

Q. When you get fish in from the bay, you inspect and mark them No. 1, 2, and 3 ?—A. Yes.

Q. You put your own brand on them ?—A. The inspector inspects the mackerel from vessels in which he is connected.

Q. When your vessels come in from Bay St. Lawrence with mackerel how do you brand them ?—A. We brand them with a hot iron, Nos. 1, 2, 3, and 4 according to the quality.

Q. Do they appear by your inspectors to be bay mackerel or shore mackerel ?—A. They do not by the inspection.

Q. You put them on the market as Nos. 1, 2, 3, or 4, irrespective of where they were caught ?—A. They are branded irrespective of where caught.

Q. Do I understand you that you put them on the market in that way ?—A. The buyers usually inquire whether they are bay or shore, and buy accordingly, but nothing is branded on them which shows any difference.

Q. Nothing on the barrels themselves ?—A. No ; nothing.

Q. You have been inspector of mackerel yourself ?—A. Yes ; for 10 years.

Q. Can you name all the different kinds of mackerel ?—A. I can name the different brands.

Q. Name them.—A. Nos. 1, 2, 3 large, 3, and 4. There are five different legal brands.

Q. Do you make any distinction between mackerel caught inshore and off shore ?—A. Not in culling them.

Q. Suppose there was a barrel full of mackerel, could you tell what were taken inshore and what out ; what were taken within three miles and what 4, 5, or 6 miles out ?—A. No ; I could not.

Q. Do you as inspector know a particular kind of mackerel as ill-grass mackerel, as distinct from any other ?—A. We don't make any such distinction.

Q. Do you know of any such distinction ?—A. No ; not in our branding or inspection.

Q. Do you know any mackerel as ill-grass mackerel in your inspection ?—A. I never heard of any as inspector.

Q. During the ten years you have been inspector you never heard of that ?—A. Not as inspector.

Q. Practically, it is not known among inspectors ?—A. No.

Q. In regard to No. 1 mess mackerel, I suppose there is such a thing from the bay ?—A. Yes ; when you cut off their heads and fix them.

Q. Do No. 1 mess mackerel from the bay range as high as No. 1 mess mackerel, say from Georges Bank ?—A. For the last two years I should say that our shore mackerel were the better mackerel.

Q. And previous to that?—A. I should say they would average to be so when we got large mackerel off our shores.

Q. That is not a very clear answer.—A. Mess mackerel is supposed to be the first quality, and, to be marketable, must be large, with the heads cut off, cleaned and prepared to be "mess mackerel." The larger and fatter the mackerel, the better mess mackerel they are. I don't think that the mess mackerel from the bay are considered as good, or have been during the last eight or ten years, as those got off our shores when we have got large mackerel off our shores.

Q. Were they considered as good previously?—A. That covers my time as inspector.

Q. From your knowledge, do you know whether No. 1 mess mackerel from the bay was considered as good or inferior to No. 1 mess shore mackerel?—A. The better qualities of shore mackerel usually ranged higher than the better qualities of bay mackerel.

Q. Before this limit of time, was Bay No. 1 mess mackerel equal or superior to No. 1 mess mackerel caught on the American coast?—A. I don't care to state about that, because I was not inspector.

Q. As you do not personally know, you do not care to state?—A. No.

Q. Is there much difference between No. 1 mess from the bay and No. 1 mess from Georges Bank?—A. The larger kinds of mackerel from our shores have fetched considerably more than No. 1 from the bay this present year.

Q. Are you not aware that No. 1 are not taken in the bay to any extent until fall?—A. Not large mackerel. Fat mackerel are not taken anywhere till late in the year.

Q. Is there any appreciable difference in price between No. 1 Bay and No. 1 from Georges Banks?—A. We have not had many mackerel this year from Georges Banks. Georges Bank is a very small place on our shores.

Q. I will take the mackerel caught off the United States coast?—A. They have been of better quality during the last two years, and fetched a higher price.

Q. Did the No. 2 or No. 1 not mess bring higher prices?—A. As regards No. 1 not mess, the only difference is that one quality had the heads cut off.

Q. Did those caught on the American coast bring a higher price?—A. Yes, this year.

Q. Taking a run of years?—A. I think so.

Q. And in regard to No. 2?—A. There is a great variation in No. 2 mackerel.

Q. I want to know whether mackerel caught on the American coast sold at higher prices in the American market than the same brands of mackerel caught in the bay?—A. I would like to explain in regard to No. 2 mackerel. The law under which I inspect requires that No. 1 shall be 13 inches long, and no matter how fat the mackerel may be, if it is a quarter of an inch short, it is nothing but No. 2. Consequently, a great number of mackerel, when mackerel are mixed, lack a trifle of 13 inches, though they are just as good as No. 1, and are branded No. 2. So there is a great difference in No. 2 mackerel about the quality, although they are the same brand. No. 2 may be as fat mackerel as was ever in the sea, but as it is only 13 inches, it can only be No. 2. Therefore No. 2 quality is inspected by buyers more particularly than any other brand according to the value and quality of the fish.

Q. That extends generally over all mackerel?—A. Yes.

Q. What is the difference in price between No. 1 mess bay, and No. 1 mess shore mackerel?—A. This year it has been —

Q. I don't ask you this year because No. 1 has not come in from the bay yet. What has been the difference for the last four, five, or six years?—A. There has to be some judgment exercised because the price varies at different times according to the market.

Q. Is there really any difference in the price of bay and shore mackerel of the same brands, so that if mackerel went up a dollar or down a dollar the same difference would continue?—A. We don't know the nature or kind of mackerel caught in the bay or off our shore until some are brought in. Mackerel vary in kind and quality in the bay and on our shore every year, and we, the inspectors, have to have some from the bay and shore in order to judge what mackerel are going to be during the season.

Q. A fisherman stated yesterday that there was a difference of \$7 per barrel between mackerel caught in the bay St. Lawrence and your shore. Is that true?—A. That is true to-day.

Q. I ask you what is the difference between No. 1 bay and No. 1 caught on your coast?—A. Eight dollars, to-day.

Q. Have you had any No. 1 mackerel from the bay up to the present time this year?—A. Yes; I have packed them.

Q. How many?—A. I packed 25 barrels of one trip.

Q. Do you wish the Commission to understand that your opinion, as inspector of mackerel at Gloucester, is that there is a difference of \$8 per barrel between No. 1 mess-mackerel from the bay and No. 1 mess caught on your shores?—A. I wish to give the Commission to understand distinctly that there is, to my personal knowledge, from mackerel sold under my observation within three weeks, \$8 difference between No. 1 bay mackerel and No. 1 shore mackerel.

Q. Is there, to your knowledge, any recognized distinction in the price paid for No. 1 mess-mackerel caught in the bay and No. 1 mess caught on your coast?—A. There is.

Q. How much?—A. Eight dollars, to-day.

Q. You consider that to be a fair answer?—A. I certainly do.

By Sir Alexander Galt:

Q. Are we to consider that there is usually a difference of \$8?—A. I don't say that.

Q. Could you not tell us what the difference is?—A. I did not understand it that way.

By Mr. Davies:

Q. Is there any difference usually?—A. Yes.

Q. How much?—A. We have to judge, as mackerel vary in price from day to day. I should judge, from my knowledge of the last four or five years, there is \$5 difference.

Q. Did that difference exist in 1865?—A. I think not so much as that.

Q. How much was it in 1865? I see that No. 1 mess, in the Ratler, brought \$20 that year?—A. Yes.

Q. Can you tell what No. 1 mess-mackerel from your coast brought that year? Is there one barrel No. 1 entered in your book as caught on your shores that year?—A. One hundred and twenty-nine barrels No. 1, \$21 per barrel. I think that would be a fair price that year, for it was a good year in the bay.

Q. Can you give us any entries to show what the difference was in any other year?—A. Not before 1865.

Q. Tell me the difference in 1866 and 1867, and give me the names of

the two vessels you take the amounts from?—A. In order to form a correct judgment on these matters, you must have sales of mackerel on the same day.

Q. Were those you gave sold on the same day?—A. No.

Q. Then the difference in price might have arisen from the mackerel having gone up?—A. Yes; I have said the price of mackerel varies from day to day.

Q. Give two cases from your book?—A. On October 17, 1866, Sarah Elwell, 146 barrels, \$18 per barrel. October 20, Eastern Clipper, 26 packed barrels, \$18.50. They were in both cases caught on our shores.

Q. Can you give the price obtained for bay mackerel about that time?—A. November 5, 1866, H. M. Woodward \$18 per barrel. That came from the bay.

Q. The rise and fall of the market has something to do with the price?—A. It has everything to do with it.

Q. In regard to the information you gave about packing, did I understand you to say you charge \$2 a barrel for packing?—A. Yes.

Q. That is charged against the vessel?—A. That is charged against the mackerel.

Q. Has the ship-owner anything to do with it?—A. He has nothing to do with that.

Q. If a firm of ship-owners send out three or four vessels, have they not the mackerel packed in their own establishment?—A. Yes; when they pack their own mackerel, but they sometimes pack for other people.

Q. I am supposing that a firm send out three or four vessels, do they not generally pack their own mackerel?—A. Certainly.

Q. They charge \$2 per barrel against the mackerel?—A. Yes.

Q. What is that charge composed of?—A. It includes barrels.

Q. How much do barrels cost?—A. The price varies according to the market value, from 50 to 80 cents, I suppose. I know one year \$1 was paid.

Q. What year was that?—A. It was paid by Rattler in 1865.

Q. What has been the average value of a barrel?—A. During the last seven or eight years it has been about 90 cents.

Q. What are the other items?—A. Another item is salt.

Q. How much does salt cost per bushel?—A. \$1.50 a hogshead at Gloucester. At that time, 1865, I know salt was \$6 per hogshead.

Q. How many barrels of mackerel will a hogshead pack?—A. We put half a bushel of salt in a barrel.

Q. What was the duty on salt then?—A. I don't know.

Q. How many bushels are there to a hogshead?—A. Eight.

Q. When salt was \$6 per hogshead, that would be 30c. per barrel?—A. Yes.

Q. Is there a drawback on salt used in that way?—A. There was no drawback at that time. We paid a duty at that time.

Q. There is a drawback now?—A. Yes.

Q. What else is there?—A. We cull and salt the mackerel.

Q. That is labor?—A. Yes.

Q. Does not the \$2 per barrel for packing and salt leave a very handsome profit?—A. It leaves a profit or we would not carry on the business.

Q. Does it leave a handsome profit?—A. I don't know your definition of the word "handsome."

Q. I will omit "very." Does it leave a handsome profit?—A. It leaves a profit.

Q. Will you state what the profit is?—A. That varies according to the price of the different articles, of course. I should judge it leaves a profit of 50c. a barrel. There is considerable labor in it. We have to hire cullers and pay them 50c. an hour—at that time.

Q. Is it 50c. clear of all expenses?—A. Yes; at that time.

Q. When you spoke of the berths, I did not understand whether the captain charged the men for the berths?—A. That is optional with the captain; there is no rule. The captain makes his own arrangements about the berths; it is not a matter for the owners.

Q. Is the selling of berths a perquisite of the captain?—A. It belongs to the captain.

Q. Your statement with regard to the schooner Mohenia differs somewhat from the statement of Macdonnell. You say she made one trip only in 1859. Turn up your book and show me how you are able to swear to that from your book?—A. All the trips and settlements with the crews are put in this book, and there is only one trip entered. She started late for the bay and it was a very hard year for mackerel.

Q. Do you speak from your personal knowledge or do you simply form your opinion from the book?—A. Both. I have a very distinct recollection of the voyage. I was part owner of the vessel.

Q. Principally from the book?—A. I spoke from recollection, and also from the book.

Q. Are you enabled to contradict Macdonnell from recollection?—A. I find there is no account of any other voyage in the book, and I know by refreshing my memory that he did not do it.

Q. I suppose you did not see the book. Are you able from memory alone to contradict Macdonnell?—A. Not so firmly as I can now. My memory is refreshed by the whole book.

Q. I am drawing your attention to 1859.—A. There is a trip for codfish July 1, 1859, schooner Mohenia. That is the last trip she made before she went to the bay. It took about one week and a half to fit out.

Q. On July 1, 1859, she came in with a catch of codfish?—A. Yes.

Q. On November 25 she packed the trip of mackerel of which you have spoken?—A. Yes.

Q. How are you able to state that she did not make a trip before that?—A. Because she did not bring any home, and because she was not put in the book.

Q. If the trip was packed by somebody else, would it necessarily appear in that book?—A. Yes. I part owner.

Q. Did you pack all Captain Layton's vessels?—A. Two-fifths of them.

Q. You owned part of the vessel?—A. Yes.

Q. You are of opinion there was only one trip made that year?—A. Yes; I have no doubt of it.

Q. Does the book show the number of wash-barrels?—A. No; the number of packed barrels.

By Mr. Foster:

These are the wholesale prices current of mackerel, from the Boston Daily Advertiser, of September 24, 1877. They are as follows:

Mackerel, bay: 3s, \$8 and \$10; 1s, \$16 and \$18; 2s, \$11 and \$13.
Mackerel, shore: 1s, \$17 and \$20; 2s, \$11 and \$13; 3s, \$7 and \$8.

Q. Will you tell me how the people, who make up prices current, find whether a particular lot of mackerel are bay or shore mackerel?—A. They generally know where the vessels have been, but they decide on the quality by examination.

Q. Do they not in Boston sometimes put on a stencil mark, "Bay," or "Shore"?—A. Yes.

Q. That is no part of the inspector's duty?—A. No.

Q. It is nothing that the law requires to be done officially?—A. No.

Q. It is done for the purpose of informing buyers whether it is bay or shore?—A. It is done in nearly all cases where it is shipped.

Q. Shipped from the wharf?—A. Yes.

Q. Then all over the country those two kinds of mackerel are known?—A. Yes. They are known by the stencil plates. I think it is the universal practice to put on "Shore" and "Bay," to whichever they belong.

Q. Can a person accustomed to mackerel easily tell by looking at mackerel whether they come from the bay or shore?—A. I think they can after they have culled a trip from each place during the year.

Q. A person who has culled or inspected them can do so?—A. Yes; after they have packed a single lot from each place. The mackerel that come in from the bay and from shore are of different character every year in each case. So it is necessary for the inspector to see a trip from each place, and he can afterwards decide.

Q. Is there any practice by which the captain is allowed to sell the choice of berths among the crew?—A. Personally I never heard of it. The choice I understand is by lot. I have usually heard it spoken of as drawing for berths.

Q. Something was said about people packing all their own mackerel. Is a sharesman obliged to have the owner of the vessel pack out his mackerel, and is he liable to be cheated about it? Explain.—A. When the vessel is at the wharf the crew's duty is to throw the mackerel from the barrels into the kid, from which they are sorted. One of the crew stands at one side of the tub to see there is fair weight, and the owner appoints a man who stands on the other side and sees there is a fair thing, and if there is any dissatisfaction the crew generally speak about it and ask if it is a fair cull. It is a mere matter of opinion, for the inspector culls the mackerel to the best of his judgment and according to law.

Q. Now, about the price charged for packing and inspection; is it always \$2?—A. No; only during those high years. It is \$1.75 this year.

Q. It varies with the price of barrels?—A. With the cost of packing.

Q. You said there was a clear profit of 50 cents a barrel on the packing?—A. I thought there was at the time. I was speaking of the Rat-tler.

Q. Will you state what, in your judgment, is the usual profit on the packing of mackerel?—A. I should say from 30 cents to 40 cents a barrel.

Q. What does the packer have to furnish; what capital has he to invest in the business?—A. He has to furnish a wharf on which to pack the mackerel.

Q. And you gave us the items of barrels, salt, and labor?—A. Yes; they are included in the \$2.

Q. What else?—A. Scales and all the materials with which to pack them.

Q. Does he get any payment for the wharf?—A. No.

Q. All those items come in the price of packing, which now is \$1.75 per barrel?—A. Yes; and a wharf costs quite a sum at Gloucester.

Q. What becomes of the sea barrels?—A. When we fit a vessel we furnish barrels. They belong to the owner, and are not charged to any

one; and when the vessel returns we take the barrels back and store them away.

By Mr. Davies:

Q. Do you mean to say that the average profit on packing is 30 or 40 cents per barrel?—A. I should say the average profit is 40 cents.

No. 25.

FRIDAY, *September 28, 1877.*

The Conference met.

JOHN S. EVITT, residing at the Bay of Islands, Newfoundland, master mariner and dealer in fish, called on behalf of the Government of the United States, sworn and examined.

By Mr. Foster:

Question. How old are you?—Answer. 37 years.

Q. You were born in the State of Maryland?—A. Yes.

Q. You have fished in Gloucester vessels?—A. Yes.

Q. And have lived at Salem, Mass., and are now at the Bay of Islands, Newfoundland, in the employment of a Salem fishing firm, as their agent?—A. I am not now. I was, up to the 1st June this year. I am now for myself.

Q. In what years have you fished for mackerel in the Gulf of Saint Lawrence?—A. From 1862 to 1869, excepting 1868. That is to say, part of some of the years.

Q. You were not master of a schooner at that time?—A. No.

Q. What was the first schooner in which you came for mackerel to the gulf?—A. Bell Brandon.

Q. Who was her captain?—A. Captain Walker.

Q. From Gloucester?—A. From Southport, Me.

Q. How many barrels of mackerel were taken?—A. About 200 sea-barrels.

Q. And where were they caught?—A. In the vicinity of North Cape, Prince Edward Island, off Bradley, and that way.

Q. Do you recollect whether any portion of them was caught within three miles of the shore? Have you any particular recollection about that?—A. No; at that time the matter was not agitated, and unless there was something to make a person recollect, he could not recollect, and could not form any idea of it.

Q. You don't recollect?—A. No.

Q. In the next year, 1863, what schooner were you in?—A. General Burnside, of Gloucester, Captain Solomon Fry.

Q. What was the tonnage of the vessel?—A. About 168 tons, carpenter's tonnage.

Q. How many men were on board?—A. 20.

Q. How many barrels of mackerel did she get?—A. Between 800 and 900 sea barrels.

Q. Where were they caught?—A. We caught most of them at Magdalen Islands, Banks Bradley and Orphan and in that vicinity, with the exception of 250 we caught round Sydney, near Flint Island, Cape Breton.

Q. Were those 250 barrels taken inshore or out?—A. I should think that they were taken inshore. I don't recollect, but I should judge most of them were taken within the three-mile limit.

Q. Where was the rest of the catch of 800 or 900 barrels taken—in shore or offshore?—A. Offshore altogether, I have no doubt.

Q. Were you in the same vessel the following year, 1864?—A. No.

Q. Do you happen to know from information received, and if so, who told you, what the catch of that vessel was in 1864?—A. I was well acquainted with the captain, and was on board the vessel a good many times. Going home he said they had about 500 sea barrels on the vessel; 530 they were reported to have.

Q. What vessel were you in during 1864?—A. Lady Franklin, of Gloucester.

Q. On the first trip?—A. No.

Q. What time did you go in her?—A. In September.

Q. What was the captain's name?—A. Elias Olsen.

Q. How many barrels did she take?—A. 260 sea barrels.

Q. Where were they taken?—A. They were taken round Port Hood, Margaree, and towards the island, generally there.

Q. What portion of them, if any, was taken inshore?—A. I could not say, probably one-half.

Q. In 1865 what vessel were you in?—A. General Grant.

Q. Who was her captain?—A. William Coombes.

Q. What was her tonnage?—A. 80 tons odd; about 85, I suppose.

Q. How many years were you in her?—A. Three years in succession; only part of the third year.

Q. Two whole years and part of a third?—A. Yes.

Q. In 1865, your first year, how many barrels of mackerel did the General Grant catch?—A. About 1,200 sea barrels.

Q. How many trips did she make?—A. Two.

Q. How many did you catch on the first trip?—A. Something about 500 sea barrels; 520 if I recollect rightly.

Q. What did you do with them?—A. Landed them at Gloucester.

Q. Then did you return to the bay?—A. We did.

Q. How many barrels did you take the second trip?—A. Enough to make up the complement—about 1,200 barrels.

Q. Did you land any of the second trip?—A. I think we landed about 200 barrels at Canso.

Q. Do you remember whether you shipped them up or carried them home?—A. The impression I have is that they were freighted up.

Q. Can you tell the Commission where the 1,200 barrels were taken?—A. They were all taken between Magdalen Islands and North Cape and on Bank Bradley and in that vicinity.

Q. Was any portion taken within three miles of the shore?—A. I don't think there was any, because we generally fished just in sight of land. The land was very low there, and we were probably six, eight or ten miles off.

Q. What land was it?—A. Tignish and Cascumpeque.

Q. In 1866 you were in the same vessel?—A. Yes.

Q. Do you happen to know whether the vessel was licensed in 1866?—A. She was.

Q. How many barrels were taken in 1866?—A. About 600 barrels.

Q. How many trips were made?—A. Two.

Q. Where were those two trips of mackerel taken?—A. On the same fishing ground.

Q. Repeat it?—A. At Bank Bradley, North Cape, and Magdalen Islands.

Q. Was any portion taken within three miles of the shore?—A. I don't think there was, because we did not visit the shores. That year we had a license. For my own satisfaction I used to take observations and cross-bearings to find out whether we were inshore.

Q. In 1867, were you in the same vessel?—A. Yes; the first trip.

Q. What did the General Grant catch the first trip?—A. About 200 barrels.

Q. Where were they taken?—A. On the same grounds—at Magdalen Islands, off North Cape, and at Bank Bradley; that is, the bulk of them.

Q. Was any portion taken inshore?—A. I don't think so. There might possibly have been a few, but not to amount to anything. We did not fish inshore at all in that vessel.

Q. Not during any of the years?—A. No; we never fished inshore.

Q. You say you took cross-bearings?—A. Yes; for my own satisfaction.

Q. Did you do it for the captain?—A. No; for my own satisfaction.

Q. What reason had you for doing so?—A. So that if at any time we should be fishing inshore, I would know we were within the three miles.

Q. Did you then understand navigation?—A. I was learning it.

Q. By yourself?—A. By myself.

Q. You say you were on the General Grant one trip in 1867?—A. Yes.

Q. Were you on any other schooner the latter part of that year?—A. On the Ruth Groves, of Gloucester, Captain David Gathney.

Q. How many barrels did she get?—A. About 120 barrels, I think.

Q. Where were they taken?—A. Round Prince Edward Island. We got so few, and they were so scattered, we could hardly tell where we got them.

Q. Did you get any portion inshore?—A. We might have; I could not say.

Q. In stating the number of years you were in the gulf, you said you were not there in 1868. What were you doing then?—A. Halibut fishing.

Q. Where?—A. At Grand Banks, St. Peter's Bank, and the Western Banks.

Q. In 1869, were you in the gulf?—A. Yes; one trip in the fall.

Q. In what schooner?—A. Samuel E. Sawyer, Captain M. C. Webber.

Q. How many barrels did she take?—A. About 120 sea barrels.

Q. Where were they taken?—A. Round the bend of Prince Edward Island, principally.

Q. In shore or out?—A. I could not say positively.

Q. In 1866, 1867, and 1869, you were fishing in the Gulf of St. Lawrence at different places. Two of those years, the whole of 1866 and the first part of 1867, your vessel was licensed. Do you recollect whether the Ruth Groves was licensed?—A. I don't recollect.

Q. Were any cutters there in 1869?—A. I never saw a Canadian cutter under sail in my life; not to know her.

Q. In what harbors in Prince Edward Island have you been?—A. Cascumpeque, Malpeque, Souris, and Georgetown.

Q. Have you been in those harbors often?—A. No; very seldom. We did not frequent the harbors.

Q. Is the bend of the island regarded by American fishermen as a safe or a dangerous place?—A. It is considered a very dangerous place in the fall.

Q. Did you ever fish in Bay Chaleurs?—A. Yes, we fished there, but we never caught any mackerel there. We tried to fish.

Q. What year did you ever try to fish there?—A. We were there in 1865 and 1869. We might have been there other years. I don't remember.

Q. What harbors did you go into most often?—A. Port Daniel and Paspebiac.

Q. Where is Port Daniel?—A. Right across from Point Miscou, at the mouth of Bay Chaleurs. Paspebiac is thirty miles from Port Daniel, and on the same shore.

Q. In 1868 you say you were halibut fishing; where?—A. At Grand Banks, St. Peter's Bank, and Western Banks.

Q. What were you doing in 1870?—A. I was halibut fishing.

Q. And in 1871 and 1872?—A. The same, in the same vessel, the C. H. Price, of Salem.

Q. Were you captain?—A. I was.

Q. When did you begin to go as captain?—A. In 1870.

Q. How have you supplied yourself with bait for halibut fishing?—A. I have got it on the Nova Scotia shore at times.

Q. Have you caught it or bought it?—A. Bought it always; I never caught any.

Q. Where?—A. At Prospect, Strait of Canso, or Little Canso, and Shelburne. I was in at Dover once.

Q. Did you ever buy any on the American coast?—A. No; I never did, except in the winter. I have bought frozen herring and taken them home. We get our bait principally at Newfoundland, at Fortune Bay, or St. Peter's Island.

Q. You know about the island of St. Peter's?—A. Yes.

Q. Do you know about cod-fishing at Newfoundland and the Grand Banks?—A. Yes.

Q. Do you know about the bait that is used by codfishermen?—A. Yes.

Q. What bait do the French use?—A. Salt bait, except what they catch on the Banks. Salt herring, caplin, and squid.

Q. Always salt bait?—A. Yes, except what they catch themselves on the Banks.

Q. Do they fish with trawls?—A. Altogether.

Q. Is there a supply of bait procurable and purchasable at St. Peter's?—A. There always is when it is in season. If you can get it at Fortune Bay you can get it there.

Q. What proportion of your bait did you buy at St. Peter's?—A. I could not say. I have been a number of times there. Sometimes we would hire a vessel to go to Fortune Bay. We generally hired a vessel at St. Peter's to get bait.

Q. Since you left off fishing yourself, which was, I understand, in 1873, what have you been doing?—A. I was agent for Whalen & Co., Salem.

Q. Where were you located?—A. Bay of Islands.

Q. Doing what?—A. Selling goods and taking all kinds of fish and produce in exchange.

Q. I want to ask you with regard to estimating distances by the eye at sea, looking from the sea to the shore, looking from one vessel to another, and looking from the shore to a vessel out at sea. Is it easy to estimate the distance accurately, and if there is a liability to err, is a man more likely to overestimate or to underestimate the distance?—A. He is more liable to underestimate the distance looking toward the land.

Q. How when looking from the land?—A. Looking toward a vessel?

Q. Yes.—A. I don't think he is liable to err one way or the other unless he is a long way from her. Then it would be according to the height of the vessel. If you knew the vessel you could judge better.

Q. But on looking at a schooner from the land, how will it be?—A. If you err at all, you will be nearer than what you seem; the schooner would look farther out than what she was.

Q. Have you any opinion as regards the comparative value of salt bait and fresh bait for cod-fishing? If so, state what it is, and give your reasons.—A. I think, of course, that with fresh bait you catch more fish for the time being; there is no doubt about that. But the time that is lost in the vessel running in after bait, as a general thing, would be more than counterbalanced by continuous fishing with salt bait. I know that from experience.

Q. Would that be the case with trawls as well as with hand-lines?—A. I don't know anything about hand-line fishing.

By Mr. Davies:

Q. Looking from the shore at a vessel, the liability to err would be about equal?—A. I should think you would be more liable to underestimate the distance if looking to the shore. I should not like to say positively.

Q. You took out a license two years?—A. I did not say two years. I took out a license one year, and I am not sure about the other year.

Mr. Foster said the list showed that a license had been taken out during two years.

By Mr. Davies:

Q. You were master of the vessel at that time?—A. No.

Q. That was in 1866 and 1867?—A. Yes.

Q. In 1862 you caught 200 barrels at North Cape, Bank Bradley; but how near the shore you have no idea?—A. Because the matter was not agitated.

Q. Some were taken inshore?—A. Yes.

Q. In 1863 you were in the General Burnside, and made a pretty good catch. I understood you to say you got 250 barrels near Flint Island.—A. Yes.

Q. Most of the fish taken around Sydney and Cape Breton are taken inshore?—A. Round Sydney they were that time. I don't know anything about it other years, because I never fished there.

Q. You never fished there except that one time?—A. No.

Q. Were many American vessels fishing there besides your vessel when you got those 250 barrels?—A. There were a good many there; but they left before they caught a great many. They caught a good many.

Q. They fished inside?—A. They fished where we did. No doubt some were taken off shore and some inshore; that is, of those we caught there.

Q. The other vessels would take the mackerel about the same place you did?—A. Yes; at the time we were there.

Q. Where did you get the other 550 barrels? Did you fish that year, 1863, along Prince Edward Island shore?—A. Not at all.

Q. Nor in Bay Chaleurs?—A. No.

Q. Where did you take the rest of the trip?—A. At Bank Bradley, around Magdalen Islands, and at Bank Orphan.

Q. You did not go near the shore at all?—A. Not when we caught mackerel.

Q. Did you try fishing there?—A. I don't recollect whether we did or not. I know we did not catch any. We did not visit the shores and harbors; we staid out all the time.

Q. You don't recollect whether you tried or not?—A. No; probably we did try.

Q. Your memory is not sufficiently clear to recollect?—A. No; I am well satisfied we did not catch any, because I can recollect our catches pretty well.

Q. In 1864, you were in the Lady Franklin, and got 260 barrels round Port Hood, Margaree, and toward Prince Edward Island?—A. Yes.

Q. Those you got at Port Hood and Margaree were taken inshore?—A. I should say one-half of them, probably. We fished from East Point to Port Hood, and round Margaree, and off Cape St. George.

Q. Have you fished between Margaree Island and the shore?—A. I never did; I never was there but once.

Q. Did you see any other vessels fishing there when you were there?—A. Yes.

Q. Many?—A. Whatever the fleet was.

Q. They were fishing there?—A. Yes.

Q. In 1863?—A. Yes.

Q. How many, in round numbers, would be fishing at Margaree, Cheticamp, and round there?—A. From 50 to 60. Sometimes there would not be any for weeks; they were coming and going all the time.

Q. Would there be as many as 100 there at any time?—A. It is likely there would be.

Q. Fishing round the Cape Breton shore?—A. Yes.

Q. Then you fished sometimes that year around Prince Edward Island?—A. Yes.

Q. Up and down the bight of the island?—A. Yes.

Q. Did you follow the custom of some of the vessels, go inshore and drift out?—A. We fished generally where the fleet did.

Q. Was that the general custom when you were there?—A. That would depend on how the wind was.

Q. Suppose the wind is off shore?—A. That is the way.

Q. You run in shore, throw out bait, and drift off?—A. I don't know what you term inshore. We might not run inshore.

Q. How near would you go?—A. I would not like to say. Probably we would go inside of three miles; most likely we would.

Q. Suppose the wind was blowing off shore, would you not run within three miles of the shore, heave to, throw out bait, and drift off?—A. We would in certain cases. When mackerelmen fish they stand up near the shore; they are as liable to heave to ten miles out as three.

Q. How near did you go to the shore?—A. I could not say.

Q. Cannot you form an idea?—A. I cannot form any opinion.

Q. I think you can, if you try. How close have you gone to try to fish and drifted out?—A. The nearest I ever was was at Flint Island; probably within one mile or half a mile of the shore.

Q. You never went within one mile of the Prince Edward Island shore?—A. No; at the bight of the island the water is pretty shallow within a mile of the shore.

Q. Or any part of the island, or off East Point or the Two Chapels?—A. I never fished there at all.

Q. Is your memory sufficiently clear on the point to enable you to state that you did not catch three-fourths of your mackerel that year in the Lady Franklin within three miles of the shore? You say you probably caught one-half there.—A. I could not give any definite statement. I don't believe anybody could. I cannot.

Q. Then it may have been three-fourths or one-half?—A. It might be one-fourth.

Q. It might be three-fourths?—A. I say I cannot tell you how many.

Q. Does your memory enable you to say that the portion taken inshore was not three-fourths?—A. It was not the whole. That is as near as I can come to it. I can give you no just idea.

Q. In 1865, in General Grant, you seem to have fished in different places from other years?—A. Yes.

Q. Did you ever, during that year, try any inshore fishing?—A. Yes; we did.

Q. Where?—A. We tried up in Bay Chaleurs.

Q. Did you try near the shore?—A. Yes; we tried right in the mouth of Port Daniel Harbor.

Q. In Port Daniel Harbor, near the mouth of Bay Chaleurs?—A. Yes; it is right across to the north of Cape Gaspé.

Q. That is hardly in Bay Chaleurs?—A. It is in the mouth of it. It is termed Bay Chaleurs.

Q. Did you ever go up the bay?—A. As far as Paspebiac.

Q. Did you fish within the limits?—A. I don't recollect. It is likely we did. I was very seldom there; I did not take any notice.

Q. You had the right to fish there?—A. I don't recollect.

Q. If you don't recollect whether you fished inshore, how can you recollect whether you took any fish or not?—A. I know we did not take any fish in Bay Chaleurs; I never helped to catch ten barrels there.

Q. Did you fish in Bay Chaleurs more than once?—A. Yes; we tried sometimes, in the Samuel E. Sawyer, in 1869.

Q. Did you go within three miles of the shore?—A. I think we did; round Point Miscou we did.

Q. Did your fishermen generally try within three miles of the shore?—A. I cannot say.

Q. Did you see any others trying to fish there?—A. Yes; off Miscon, eight or ten vessels.

Q. All trying at the same place?—A. Yes; but they tried as much and more off shore, and in the middle of the bay.

Q. You caught 1,200 barrels in the General Grant?—A. About 1,200 sea-barrels.

Q. They would pack 1,100?—A. I don't recollect. I remember how many I packed.

Q. Did you not try round Cape Breton that year?—A. Yes; we tried on our way running up. We tried right along. We hove to off Port Hood and Margaree.

Q. Were American vessels fishing there?—A. Yes.

Q. When you took your fish you were off Tignish?—A. Yes.

Q. Did you never run in there close to the shore?—A. We never tried inside of three miles; we never took any fish inside of three miles. I am sure of that.

Q. You were right off?—A. I will tell you why I recollect it. There was not any agitation about the matter then; but we several times—it was calm weather—put out our boat, and she has rowed out of our sight.

Q. That is the mode you took of going?—A. Yes; that is how I recollect. They caught some in the boat, although the vessel could have gone inshore.

Q. Did you go inshore to catch some?—A. Yes, I was in the boat. The catch did not amount to anything.

Q. How close did you go in with the boat to get mackerel? Did you go where the other boats were fishing?—A. No other boats were there.

We went in to get mackerel. We got about one barrel among seven or eight men. It was more for the sport than for the fish.

Q. It did not occur to you to run the vessel inshore?—A. No.

Q. Why?—A. Because the captain did not care for the shores, and did not think it worth while.

Q. That year when you got 1,200 barrels you caught them all outside, and the very next year the captain went inshore?—A. The reason he did it was to avoid any trouble whatever.

Q. In 1865 you never fished in sight of the shore; there was no trouble then?—A. He would get fish for mackerel if they were to be caught.

Q. You never ran in to see?—A. We went in to see, but none were caught inshore.

Q. I am confining myself to 1865?—A. Most likely we did go in and try.

Q. From all you can remember to the contrary, you did go in and fish?—A. I don't recollect that we were inside of the three miles when fishing on that vessel.

Q. It seems curious that when you caught the large catch outside, the next year you should take out a license?—A. There is a difference in men. Some did not take out any license, but other men, law-abiding citizens, when they found the law required them to do so, took them out.

Q. A good many did not take out licenses?—A. Some.

Q. How many?—A. I could not form any idea.

Q. You knew there were some?—A. I don't know any more than what they have said.

Q. From what they told you, you understood there were some who did not take out licenses?—A. Yes.

Q. There was a large fleet which did take out licenses that year?—A. I know we took out a license one year.

Q. Mr. Foster has said you had licenses two years?—A. I did not know it.

Q. In 1866 you made two trips in the same vessel; where did you catch your fish?—A. On the same fishing-ground as in 1865; at Magdalen Islands and North Cape.

Q. Any inshore?—A. I think not. I never remember trying inshore that year, although we had a license.

Q. Did you go inshore that year at all?—A. It is likely we did.

Q. Whereabouts?—A. I could not say that we ever did, because that year I used to take bearings to form an idea how far we were from land. There used to be arguments with the crew and captain as to how far we were off, and we were always further off land by the cross-bearings than they estimated.

Q. How far off did you appear to be by the cross-bearings?—A. From five to ten miles.

Q. Off what land?—A. Off North Cape.

Q. Were some of the crew disputing as to whether you were not within three miles of the shore?—A. Yes.

Q. Was that when you were ten miles off?—A. Not when we were ten miles off, but when we were different distances.

Q. From five to ten miles?—A. I think the closest I ever found us by cross-bearings was four miles.

Q. And you took them for your own satisfaction?—A. Yes.

Q. You had no doubt in your mind that you were outside of three miles?—A. I was studying navigation; I did it for practice and for several purposes.

Q. Did you keep any memorandum of the bearings?—A. I did. I kept a kind of journal, but I have not got it here.

Q. In 1867 you caught mackerel in the Ruth Groves round Prince Edward Island?—A. Yes.

Q. You cannot say how many you took inshore?—A. No. We caught 120 barrels, I think. Seventy barrels we took in sight of land at Malpeque.

Q. How far off were you at that time?—A. I don't know. It was only in 1866 I took cross-bearings.

Q. During the last year or two have mackerel been found closer to the shore than formerly?—A. I don't know anything about that; I have not been there.

Q. You were there in 1869?—A. Yes.

Q. You caught all your catch in the bend of Prince Edward Island?—A. Not all of it. We caught part at Magdalen Islands.

Q. You said, generally, that you caught them at the bend of the island?—A. I said that we caught them at Magdalen Islands and the bend of the island.

Q. Will you swear you caught any part of them at Magdalen Islands?—A. I might have omitted that. Speaking in general terms, I said we caught so few mackerel that it was hard to tell where they were taken. We visited the whole bay that year.

Q. You went up and down, fishing inshore and outside?—A. Yes.

Q. Where were the other vessels fishing, inshore and outshore?—A. We saw vessels all round where we were fishing.

Q. You never fished up at Seven Islands?—A. Never.

Q. Nor up St. Lawrence River?—A. No.

Q. You cannot tell where you fished in Bay Chaleurs?—A. I never caught any there.

Q. Did you see some English war vessels?—A. I have seen, on the way, one or two lying at Port Hood which appeared to be English steamers.

Q. They did not interfere much with you?—A. Not with us.

Q. Where were you fishing halibut in 1872?—A. At the Grand Banks principally and at the Banks of Newfoundland.

Q. Not down the Nova Scotia Coast?—A. No.

Q. Do you know Cape Sable Island?—A. Yes.

Q. Do you know that the halibut fleet go there and fish?—A. I don't think they do; I never went there.

Q. Have you sufficient information to enable you to state that they do not?—A. I never heard of anybody catching fish close to Sable Island. They might do so.

Q. You don't know?—A. I don't know anything about it.

By Mr. Whiteway:

Q. You live at the Bay of Seven Islands now?—A. Yes.

Q. How long have you lived there?—A. I went there first in 1874. I went again in 1875.

Q. You now reside there permanently?—A. I don't call it permanently. I have been there for three years, but I don't call it my place of residence.

Q. You are an American citizen?—A. I am not a naturalized British subject, but an American citizen.

Q. How long have you been fishing on the Banks?—A. I was for three years captain of the C. H. Price, of Salem. We fished on the Grand, St. Peter's, and Western Banks.

Q. During what years?—A. 1870, 1871, and 1872.

Q. And what have you been doing since?—A. I have been at the Bay of Islands.

Q. Were you fishing on the Grand Banks for cod or halibut?—A. For both.

Q. During those years you caught your fish with fresh bait?—A. Mostly.

Q. You went to St. Peter's and hired parties there to go to Fortune Bay and fish?—A. I did at times. I sometimes ran right up to the bay.

Q. You had no experience at the Grand Banks prior to 1870?—A. No.

Q. Other American vessels pursued the same course you adopted?—A. I don't know anything about other vessels. I know what I have done. I have seen other vessels where I was.

Q. Did you ever fish with salt bait?—A. Yes; one trip for cod; not for halibut. We always fish with salt bait if the fresh gives out.

Q. When was that trip?—A. In 1870.

Q. Where did you get the salt bait?—A. We took it from Salem.

Q. What quantity did you take with you?—A. I don't remember.

Q. You left Salem, and went from there to where?—A. To Grand Banks.

Q. You fished with salt bait, and continued there how long?—A. Till the latter part of October.

Q. You were absent about six weeks?—A. Yes.

Q. Did you then return to Salem, or did you go in for fresh bait?—A. I never went in for fresh bait.

Q. What fish did you take?—A. Cod and halibut.

Q. How much?—A. About 75,000 pounds.

Q. Do you remember how much cod and how much halibut?—A. Between 8,000 and 10,000 pounds of fitched halibut, salted.

Q. You remember distinctly that was the quantity?—A. Between 8,000 and 10,000 pounds; I don't exactly recollect.

Q. You were only absent a period of six weeks?—A. We left home in September, and we left the Banks about 20th October.

Q. The fish were very plentiful about that time?—A. I never found them very plentiful; some did.

Q. To get so large a quantity in so short a time, they must have been very plentiful?—A. We don't call fish very plentiful to catch that quantity in six weeks' trawling; we did not then. I have known vessels catch double the quantity in half the time.

Q. That is your only experience in fishing with salt bait?—A. Yes; beyond what I have seen among the French.

Q. Have you ever fished in French vessels?—A. No; but I have been on board those vessels and seen the men fish, and seen them take bait.

Q. You say they always fish with salt bait?—A. All I have ever seen.

Q. How many vessels have you been on board of?—A. A dozen.

Q. What year?—A. Every year I have been there.

Q. Where were you, on the Banks?—A. Yes.

Q. Can you say that they ever fish with fresh bait?—A. I never saw them fish with fresh bait, anything more than what they caught themselves.

Q. Don't you know that of late they are beginning to use fresh bait?—A. They may be.

Q. Don't you know that they are beginning to use fresh bait in consequence of Americans using fresh bait in such large quantities on the

Banks?—A. I have not been on the Banks since 1873. I have not heard it.

Q. The French fish with trawls?—A. Altogether.

Q. You fished with trawls?—A. Altogether.

Q. Did you know any Frenchmen fishing with hand-lines?—A. Some of them, towards the rocks.

Q. Very few, I believe?—A. No; there are a good many.

Q. Those who fish with hand-lines, do they fish in vessels or in dories?—A. In dories, principally.

Q. In a vessel fishing with dories and hand-lines, how many will compose the crew?—A. I don't know; it will be according to the size of the vessel.

Q. Say for a vessel of 70 or 80 tons?—A. I don't know.

Q. Take a vessel of that size fishing with trawls, what will be the number of her crew?—A. About 12 men all told.

Q. How many dories will she have?—A. Four, five, or six.

Q. Taking a vessel of that size, what do you consider would be a fair trip of codfish?—A. 150,000 pounds of fish. She would not lose anything with that, if she did the voyage in a reasonable time, and the fish brought a fair price. That would be a fair good trip.

Q. It would be a full trip?—A. A vessel would carry from 150,000 pounds to 200,000 pounds, a full trip.

Q. What would you consider a fairly good trip?—A. 150,000 pounds I would consider a good trip.

Q. How many trips do you consider a Grand Bank codfish and halibut fishing vessel could make during the year, sailing from Salem or Gloucester, and going to the Grand Banks?—A. It is probable she might make twelve, and might not make more than six.

Q. She might make six trips?—A. Not for salt fish. I am speaking about fresh fish. For salt fish, the most trips I have ever known made were three, and much oftener one or two.

Q. You are of opinion that fresh bait enables fishermen to catch the fish more quickly than salt bait?—A. Yes; for the time being.

Q. Then with a good supply of fresh bait always on hand, a greater number of trips would be made?—A. Yes; but they cannot keep a good supply a long while.

Q. But if it was on hand?—A. If they had it there they would do better than if they had to go after it.

Q. They would increase the number of trips?—A. It is likely they would, if they always had it on hand; but if they have to run after it three or four hundred miles and spend five or six weeks doing it, they might get the fish more quickly, but would not increase the whole catch.

Q. But if they could get the fresh bait easily they would be able to increase the number of trips?—A. Yes.

Q. Are you carrying on the cod and herring fishery at the Bay of Islands?—A. No; we don't catch any.

Q. You are engaged trading?—A. Yes.

By Mr. Foster:

Q. When you say 150,000 pounds of salt codfish would be a fair trip, did you mean an average trip?—A. No.

Q. What would be an average trip?—A. I don't know; I should not like to say.

Q. What would be regarded as a paying trip?—A. That depends on the length of time the vessel is on it. She might go and get 100,000

pounds in two weeks, or she might in three or four months get 150,000 pounds and lose money. It all depends on the time occupied.

Q. During the three years you were captain you were fishing principally for halibut, and so your catch would not be a fair test?—A. No.

Q. Suppose a voyage took three months, and you got 150,000 pounds of salt codfish, would that be profitable to the vessel?—A. I think not. I think she would come out at the wrong end with present prices.

Q. You were not summoned here as a witness?—A. No.

Q. You were in the city attending to your business and you were asked to come and testify?—A. Yes.

Q. Have you had access to books, papers, or memoranda for making your recollection distinct?—A. No; I have not. I never had any idea of coming here; and I did not want to come here to-day, because I had my business to attend to.

Q. Where are your family?—A. At Bay of Seven Islands.

Q. When you went with your vessel to Fortune Bay after bait, did you buy it or catch it?—A. We always bought it, never caught it.

Q. When you hired a vessel at Saint Peter's to catch bait, how did you pay?—A. In money.

Q. What was your bargain?—A. We would give either so much a barrel or so much for what we wanted.

Q. Then you bought the bait from them?—A. Yes.

Q. Either at so much a barrel or so much for the required quantity?—A. For what we wanted.

Q. Was that what you meant by saying you hired a vessel?—A. Yes.

Q. Did you ever catch any halibut inshore?—A. No.

Q. I noticed you spoke of going to Bay Chaleurs and trying for mackerel in 1865, which was the year when in the General Grant you made the big catch?—A. Yes.

Q. How did it happen that you left the ground where you were doing so well and went up Bay Chaleurs?—A. We were fishing on Bradley. I recollect it very distinctly. The hands of the crew were sore. We went into the harbor for water, and to see if we could not do better. We laid there a few days; we caught none there, and we went back to the former fishing-ground. When I say we caught none, I mean we may have caught two or three barrels.

No. 26.

Col. BENJAMIN F. COOK, inspector of customs at Gloucester, called on behalf of the Government of the United States, sworn and examined.

By Mr. Trescot:

Question. What is your age?—Answer. Forty-four.

Q. How long have you been fishing in the gulf?—A. Off and on for twenty years.

Q. As sharesman?—A. Well, yes.

Q. When were you in the gulf as captain?—A. I never was there in that capacity.

Q. When have you been fishing lately in the gulf?—A. I have not fished there lately; the last year I was there was 1856.

Q. Were you fishing there in 1852 and 1853?—A. Yes.

Q. Where were you fishing in 1852?—A. We then tried all over the bay. After we left Canso we went up the island, and to Banks Bradley and Orphan. We fished broad off Malpeque, and at the Magdalen Islands.

Q. What distance were you off Malpeque?—A. We were just in sight of land—perhaps 20 miles off.

Q. What was your catch that year?—A. About 275 barrels; we took about 75 barrels off Malpeque, and the remainder on Banks Bradley and Orphan, and at the Magdalen Islands.

Q. You only made one trip that year?—A. Yes.

Q. Where were you in 1853?—A. In the bay.

Q. Where did you fish?—A. At about the same places as in 1852. We tried off Margaree, Cape Mabou, Cheticamp, and other places.

Q. And in 1853 you did the same?—A. Yes.

Q. What was your catch that year?—A. About 300 sea-barrels, which packed out about 275 barrels.

Q. What did you do in 1854?—A. A firm was formed and opened stores—one at Port Hood, and one on Margaree Island. I resided at the latter place that year. We went down there to carry on the fishing business and to fish ourselves.

Q. When you say that you carried on the fishing business, do you mean that you yourself fished?—A. Yes. We went down to carry on a general fishing business, and if successful we were to have an interest in the business; but if the prospects did not seem to be good, we would go fishing, and we went fishing the whole year around the island.

Q. What was the result?—A. The firm failed in the fall, and the general result was poor. We fished for mackerel ourselves all the year round.

Q. What was the result of the mackerel-fishing off Margaree?—A. We both of us caught 25 barrels; 12½ apiece.

Q. Where were you fishing?—A. Close inshore.

Q. When did you go fishing again in the bay?—A. In 1856.

Q. In what vessel?—A. The Emma J. Gott.

Q. What did you do?—A. We fished nearly at the same places as previously.

Q. You then fished, I understand, on Banks Bradley and Orphan, and at the Magdalen Islands?—A. We tried all over the bay; we caught some mackerel at the Magdalen Islands, some on Bank Bradley, some on Bank Orphan, and a few down off Cape North, C. B.

Q. What was your catch that year?—A. Between 275 and 300 barrels.

Q. What did you catch off Cape North?—A. About 20 barrels; taken outside of the three-mile limit, I think. The land is so high there that it is hard to judge this distance.

Q. Since then you have been inspector of customs at Gloucester?—A. Yes.

Q. You have had nothing practically to do with fishing since then?—A. No; save general supervision.

Q. As an inspector, generally interested in the Gloucester business?—A. Yes.

Q. As a general rule, speaking from what you see of the Gloucester business as inspector, has the mackerel-fishing fleet sent from there to the gulf increased or diminished in number?—A. It has diminished largely during the last ten or fifteen years.

Q. How about the Gloucester fleet which has fished on the United States coast?—A. It has been steadily increasing in number.

Q. We have heard a great deal about the value of the inshore fishery in British waters; you have lived at Margaree Island, and have fished in those waters for years, and do you recollect noticing where the En-

glish fleet fished when you were in the bay?—A. They always fished offshore.

Q. And not inshore?—A. No; during the whole year I was on Margaree Island, I never had brought to my notice one English vessel which fished inside of the three-mile limit or anywhere near there. In fact, the whole American fleet never caught, I would venture to say, 100 barrels of mackerel within the three-mile limit off Margaree Island, during that whole year.

Q. And the English fleet fished with them?—A. Their vessels always fished with our fleet during 1852 and 1853. There were quite a number of vessels in that quarter from Lunenburg, &c.

Q. Can you form any idea of what the number of vessels in the English fleet was, compared with the American fleet, when you had an opportunity of close personal observation?—A. Taking the whole English fleet in the bay at the time, it numbered, perhaps, thirty sail; in my judgment this was the case.

Q. And these vessels fished with the American fleet outside of the three-mile limit?—A. Yes.

Q. And when you lived down on this coast, the American fleet did not fish inside of the three-mile limit?—A. No; though we tried inshore all round.

By Mr. Davies:

Q. You were only fishing in vessels?—A. Yes.

Q. In 1852, 1853, and 1856; I suppose that you were in the war afterward?—A. Yes; in 1861.

Q. How long were you in the Army?—A. A little over three years.

Q. You state that you were under the impression that mackerel-fishing in the gulf had decreased of late years, and rather increased on your own shore?—A. Yes.

Q. Over what period of time would you like to make that statement extend?—A. Say from 1867 or 1868, for about 10 years; I will state that positively.

Q. You have examined statistics, I hope, before you have made this statement?—A. I know all about it; it is my business to mix myself up in these matters.

Q. What percentage of increase would you say there has been in the fishing on the American coast during the period to which you allude, since 1867?—A. I think the increase there has more than corresponded with the decrease in the bay.

Q. Can you give an idea as to the percentage of the increase and decrease?—A. I could not. They fish with seines on our shore and get a great amount of mackerel, and they cannot use these seines in the bay, from what I have heard.

Q. Suppose we leave out of present consideration the years 1875 and 1876, would you then state that the fishing from 1867 to 1874 on the American coast increased materially?—A. I am not prepared to answer that question. I never considered it, save as to the last ten years.

Q. Then I understand your answer to relate more especially to the years 1875 and 1876?—A. No.

Q. Suppose that the years 1875 and 1876 are struck out from our consideration altogether, would you then be prepared to state to the Commission that the fishing along the American shore had materially increased from 1867 to 1874?—A. I think it did—until this year, perhaps.

Q. Materially?—A. I should think so.

Q. Do you know whether that opinion is coincided in by eminent writers on the fisheries?—A. I do not know what eminent writers think about them at all.

Q. You do not know whether Professor Baird agrees with that opinion?—A. No; I have talked with Professor Baird, but I do not know his opinion in this regard.

Q. Are you able to state whether the statistics bear out that opinion?—A. No, I cannot say.

Q. How do you form your impression that between 1867 and 1874 your fishing on the American coast increased materially?—A. I do not know as I said so. I said that during the last ten years the fishing business had increased on our shore and decreased in the bay.

Q. I then wish to put to you a different proposition. Suppose you eliminate the years 1875 and 1876 from consideration, do you think that the fisheries on the American coast increased from 1867 to 1874?—A. I do not know about that. I am not obliged to answer it.

Q. You decline to answer, do you?—A. I say that during the last ten years—

Q. Stop a moment, please. Do you decline to answer that question? I understand so.—A. I do not decline to answer anything I understand.

Q. Has this year been a good fishing year on the American coast?—A. In the spring, out south, there was a large amount of mackerel; and late this fall, when we were coming from home recently, the mackerel had appeared in large quantities from Mount Desert down to Block Island; but during the middle of the summer they seem to have sunk or disappeared.

Q. Has the catch this season been up to the average?—A. It has not.

Q. Has it been much below the average?—A. The catch has been below the average, I think; but the mackerel have been lately about the same.

Q. The reports are good as to the appearance of mackerel now?—A. Yes.

Q. And the catch has been much below the average?—A. I do not know about that, but I think so.

Q. Has the catch in the Gulf of St. Lawrence this year been above or below the average?—A. I should think that the catch there has been a little above the average, because a great many vessels have gone there this year, being induced to do so by false reports sent to show that there was a large quantity of mackerel down there.

Q. You think that these reports were sent with a motive?—A. I know that one vessel went down to the bay and came home with 30 barrels of mackerel, and 7 barrels of these were taken while coming home, near Mount Desert.

Q. Do you think it possible that the absence of mackerel off the American coast had anything to do with the American fleet going to the bay this year?—A. I think that they were led to go there by the dispatches I saw; quite a number of them were stuck up in the insurance office informing the Gloucester fishermen that plenty of mackerel—large quantities of them—were in the bay; which did not prove to be so.

Q. Do you think that the absence of the mackerel and the failure of the catch on the American coast in the spring had anything to do with the fleet going down to the gulf?—A. I think it might; that is during the first part of the season, combined with those inducements which were held out to the fishermen.

Q. Do you think that one element which weighed with the American

mackerel-fishing-vessel owners and the captains of the vessels was the failure of the catch on their own coast?—A. I did not say so.

Q. You think that this had nothing to do with it?—A. I say it is not a failure; the fishing on the American coast this year has not been a failure, but dispatches received induced vessels to go to the bay.

Q. I understand you to say that during the first part of the season the fishery was a failure on your coast?—A. I said that during the first part of the year off Block Island, and out south, there was an abundance of fish.

Q. You stated that the catch on your coast during the first part of the season, up to the 1st of July, was below the average?—A. Yes.

Q. Do you think that this fact had anything to do with your vessels coming down to the Bay of St. Lawrence?—A. I do not think so. I think that they would have made a good catch this year on our shore, had not the mackerel schooled during the night instead of during the day, as has been their usual custom.

Q. Do you think that the lying dispatches had anything to do with their coming to the bay? Will you be kind enough to state from whom these lying dispatches came, and who posted them up?—A. I cannot tell you anything about it. I did not say that lying dispatches were sent.

Q. You said false dispatches were posted up with the intention of inducing your fishermen to come to the bay; did you not say that false dispatches were posted up with the intention of inducing your people to come to the bay?—A. That is not what I meant to say.

Q. Did you not say so?—A. I would not say exactly that this was what I said.

Q. Now, I want to see what you do mean. You understand there were false dispatches posted up in the reading-room in Gloucester?—A. Dispatches which proved to be false.

Q. Can you state who they were from?—A. I cannot. I think they were from those who sold supplies to American fishermen in Canso.

Q. What makes you think so?—A. Well, I think I saw one stuck up on the bulletin-board in the reading-room in Gloucester.

Q. Were they published in any Gloucester newspapers?—A. No. Generally when they had any dispatch as to bait or fish in any direction they telegraphed to Gloucester, and it was stuck up in the reading-room.

Q. Can you state from whom any one of those dispatches came?—A. I could not.

Q. You cannot give any one name?—A. I could not.

Q. Did you see any more than one dispatch that turned out to be false?—A. I don't know that I did.

Q. Can you give me the tenor or purport of that dispatch?—A. "Plenty of mackerel in the North Bay." It was that, or words to that effect.

Q. Are you prepared to say that the substance of that was false, as they sent it that year?—A. I know the result has shown it so. The letters that have come home have reported a different story.

Q. You are not prepared to say whether at that date there were plenty or not?—A. There might have been; I don't know.

Q. Do you know what the catch has been this year in the gulf?—A. I do not.

Q. Have you taken the trouble to inform yourself from statistics what have been the results, or what have been the importations into the

United States from the bay?—A. I have not, unless it was an individual case.

Q. Well, although you have not taken that trouble, you venture to assert that this telegram was false?—A. I venture to say it was not correct.

Q. Although you have not taken the trouble to examine the statistics?—A. Not the statistics, but the vessels arriving home, and owners who have received word from their vessels.

Q. What vessels?—A. The Ellen M. Crosby.

Q. Is there any other?—A. She caught seven barrels of mackerel and enough to make up 30 coming home. So the crew told me.

Q. Was she a seiner or a liner?—A. A seiner.

Q. Are you aware whether or not the mackerel are so close in that seiners cannot catch them?—A. I think the seining business in the bay will be a failure altogether.

Q. Do you know the reason?—A. The rocks and rough bottoms, as a general thing.

Q. And has the fact that the mackerel are too close in anything to do with it?—A. I should not think so; I should think they would fish inshore as well as out.

Q. Notwithstanding the depth of the seine?—A. That does not make any difference.

Q. It doesn't? Do you know the depth of the seines used on the American coast?—A. Yes.

Q. Can one of those be used with advantage on the Cape Breton shore, at Prince Edward Island or Bay Chaleurs?—A. I think they could on the Cape Breton shore.

Q. Can they on the other shores?—A. On some they could.

Q. Have you ever tried?—A. No; I have never been seining myself.

Q. Therefore you don't know. Now, will you swear, or state to the best of your knowledge, that there were 50,000 barrels caught on the American coast before the first of July this season alone?—A. No; I will not swear there were more than 100,000 caught. I don't know anything about it.

Q. And you venture to assert that the mackerel-fishing along that coast has been increasing. Did you mean this year?—A. I said that this year the mackerel had not been so plenty on our shores.

Q. What year were you at Margaree?—A. 1854.

Q. You were there in boats?—A. Yes.

Q. You were in Margaree?—A. Yes.

Q. How far would you go from it in boats?—A. All around the island to the northward.

Q. How far from the coast?—A. 3, 4, and 5 miles.

Q. Then your experience during that time will be limited to that area?—A. We could see down Margaree Island, Cheticamp, and Mabou.

Q. I would like to have you state again what is the result of that year's fishing, 1854—I don't mean your own experiment, because you didn't catch but 25 apiece?—A. Twelve apiece.

Q. What was the result of the catch on the part of the fleet?—A. I never saw a vessel that had got a spurt of 10 barrels—not any one vessel during the year.

Q. But that is speaking with reference to what you saw.—A. Well, I know. It was my business to be out early in the morning.

Q. I suppose you would not extend that to Port Hood?—A. As far as I could see.

Q. But you could not see Port Hood?—A. No; we could see as far as Cheticamp.

Q. That was the only year you tried there?—A. Yes.

Q. Were there many boats that tried?—A. About thirty for codfish.

Q. Any boats for mackerel?—A. No. They tried once in a while, and it was not a success.

Q. In 1852 and 1853 did you try in Prince Edward Island?—A. Yes.

Q. Where?—A. At Malpeque—abroad off Malpeque.

Q. Not within ten miles?—A. No.

Q. You didn't go inshore at all?—A. No.

Q. Did you go along the island shore within 3 miles trying to fish?—A. Yes.

Q. Was that the year reciprocity came into force?—A. I don't know when it came into force.

Q. Did you in 1852 try to go along inshore?—A. Yes.

Q. Were you not afraid of cutters?—A. No.

Q. Did you know you had no right?—A. I don't know whether I had the right or not.

Q. You tried?—A. Yes. If we didn't try we ran by vessels that were trying.

Q. Did you try Bay Chaleur?—A. I never was in Bay Chaleur.

Q. You never were along the west coast of New Brunswick. You caught them in 1852 at Malpeque, on the Magdalens, and Bradley. Did you in 1852 try Margaree and Cheticamp?—A. Yes; all those years.

Q. And that particular year?—A. Yes.

Q. With what result?—A. Nothing.

Q. Were there no mackerel there in 1852? Do you pretend to say there were none?—A. I pretend to say I heard of none being caught there, and we caught none.

Q. How often did you try?—A. Well, I suppose we ran round two or three times in the year.

Q. Are you prepared to state whether other vessels took large catches or not in 1852?—A. I don't know. They might. If we had heard we would probably go there.

Q. In 1853 was the result the same?—A. I don't know whether the others caught any or not.

Q. In 1853 you were in the bay and caught 275 barrels; you don't know whether the other vessels caught around the coast or not, but you didn't?—A. We fished with the fleet.

Q. Now I ask you whether in 1852 and 1853 the fleet caught any fish around Margaree?—A. We never caught any there. I could not say for the fleet.

Q. If they fished with you you would know?—A. They fished with us.

Q. You would know, would you not?—A. If we were up in Bradley.

Q. You said the fleet fished with you around Margaree in 1852 and 1853?—A. Yes; there might be one ten miles and another fifteen miles.

Q. But there was no fleet?—A. It is hard to tell what you consider a fleet of vessels.

Q. Do you consider that a fair answer, that it is hard work to tell what you consider a fleet?—A. Yes; it is hard work to tell.

Q. Was the fleet fishing with you or not around Margaree shore?—A. There might be perhaps a dozen trying with us; that is all.

Q. That is all. Then they were not with you?—A. They were scattered all round the bay trying to find mackerel.

Q. You say there might be six vessels at a distance off? Is that all?—A. I cannot remember whether there were six, eight, or ten.

Q. I understand the impression you wish to leave is that the fleet were not fishing with you?—A. The vessels were lying around from one place to another, but there might be six or a dozen at the same time when we hove to.

Q. What impression do you want to leave as to whether the fleet was fishing around you at Margaree or not?—A. We didn't fish there long.

Q. I do not care whether you fished there a day or a week. You cannot tell?—A. How can I tell whether they were fishing; there might be a whole fleet.

Q. The reason I want to know is that I have the evidence here of men who did fish there. I want to see whether you state that fish were not caught there that year.—A. I say when we tried there was none.

Q. You will not state whether the fleet was fishing with you?—A. A part might be.

Q. What number?—A. A dozen vessels might run by us when we hove to, and they would not heave to if they saw we were catching nothing.

Q. When were you first inspector of customs in Gloucester?—A. 1865, I think.

Q. Have you been so ever since?—A. Yes.

Q. What was the number of the fleet in 1865?—A. There were 525 to 575 registered vessels.

Q. From Gloucester alone?—A. Yes.

Q. Fishing-vessels, I mean?—A. No. Perhaps 400 fishing-vessels. I am not positive about that.

Q. Are there as many to-day?—A. Gloucester, as I speak of it now, includes Rockport, Essex, and Manchester.

Q. Say what it includes.—A. Rockport, Manchester, and Essex. There is one vessel or two in Manchester and none in Essex.

Q. Then 398 is the number for Gloucester. Has that fleet increased or not?—A. It has decreased since that time, I think.

Q. To any material extent?—A. Yes, sir.

Q. What would you say?—A. Perhaps 10 or 15 vessels fall off, and then catch up again.

Q. Does it now range about the same as it then did?—A. I should judge it had fallen off.

Q. How much?—A. I don't know. I did not take the pains to inform myself. I might have easily done so.

Q. I refer to the fishing-vessels. How much have they fallen off; ten or fifteen?—A. I should not like to say, because I don't know.

Mr. DANA. You are inquiring as to the whole fishing-fleet?

Mr. DAVIES. I am speaking generally first.

Q. I see here in a list of vessels belonging to Gloucester, published by John S. E. Rogers—do you know him?—A. Yes.

Q. Is he a reliable authority?—A. I suppose he calculates to be as near as he can get.

Q. He says:

The foregoing list of vessels enrolled in the district of Gloucester is made up to August, 1876, and comprises the names of five hundred and thirteen vessels, of an aggregate tonnage of 31,841.07 tons, which is an increase of fourteen vessels and 1,706.31 tons, as compared with the list of 1875. The new vessels which have come into the district average larger than those which have gone out, consequently the increase of tonnage is much larger in proportion to the increase of number of vessels, than the average tonnage of the whole dis-

trict. The following is a statement of the aggregate of the whole number of vessels and tonnage in the district :

Vessels.	Tonnage.
445 schooners.....	30, 152. 15
3 yachts.....	182. 47
12 sloops.....	818. 78
5 steamers.....	145. 76
48 boats.....	541. 91
513.....	31, 841. 07

They are divided among the five sections of the district as follows :

GLOUCESTER HARBOR.

Vessels.	Tonnage.
401 schooners.....	27, 651. 51
1 yacht.....	27. 97
2 sloops.....	90. 56
5 steamers.....	145. 76
27 boats.....	321. 87
436.....	28, 237. 67

If that statement is correct, the total number of vessels would not appear to have decreased from the time you began to be inspector?—A. If I am allowed to explain, I remember one time I asked the clerk the number of registered vessels, and I understood him to say 555 vessels. My impression was that the fishing fleet had decreased, but I think larger vessels were built, and so the tonnage was about the same.

Q. You never examined the statistics for yourself, personally?—A. No.

Q. So, you can't say, except from hearsay. Being inspector of customs I thought you were called officially to speak with accuracy?—A. No, I cannot.

Q. You never examined them at all, and don't speak with any accuracy, and don't pretend to?—A. As to what part?

Q. The number of vessels, and whether they have increased or not?—

A. My general impression is——

Q. But I am asking you whether you speak with reference to actual knowledge acquired from official documents?—A. No.

Q. Now, in answer to my question as to vessels from Gloucester that returned with bad fares, you picked out one, the Helen M. Crosby, which got 30 barrels. She went home the 2d of August?—A. You have that wrong. I was informed by the crew of the Helen M. Crosby that they brought home 30 barrels, 7 of which were got in the bay, and the rest around Mount Desert on the way home.

Q. That is correct, that is what I have here, at least except as to the place where they were caught; I didn't know that, but August 2d she went home, didn't she, from the bay?—A. I don't know.

Q. Do you know anything about other vessels? Some have got as many as 270 barrels, from that down. I will read you from the returns: The Macleod got 170 barrels, the Flying Cloud 205, the Alice 235, the Hyperion 240, the C. C. Davis 90, the J. J. Clarke 240, the Cayenne 300, the Alice M. Lewis 200, the Marion Grimes 150, the Fredk. Gerring, jr., 330, the George B. Loring 250, the Fleetwood 90, the Falcon supposed 60, the Eastern Queen 120, the Amos Cutter 180, the Rambler 270, the Harvest Home 235, the Martha C. 170, the E. A. Horton 235, the Gertie Lewis 127, the John Wesley 190, the Idella Small 150, the Flash 85, the Onward 117½, the Miantinomah 101, the David F. Low 220, the Nellie

More 70, the Lilly Dale 130, the Eben Dale 88, the Seth Stockbridge none, the T. L. Mago 150, the B. F. Some 160, the Maggie Power 90, the Clara L. Dyer 90, the Ocean King 110, the Eunice P. Newcomb 85, the Oasis 60, the Challenger 170, the Ellen M. Crosby 30, the Lottie E. Hopkins 150, the Etta Gott 226, the Rattler 170, the M. J. Elliott 60, the Edmund Burke 230, the A. C. Newhall 140, the Roger Williams 80, the Lillian M. Warren 120, the Vidette 125, the Wm. A. Pew, 160, the Lizzie Poor 150, the Lady Woodbury 220, the Martha A. Brewer, 150, the Geo. B. McClellan, 150, the Waterfall 85, the Gray Eagle 16, the Madawaska Maid none, the Cyrena Ann 60, the Alice M. Gould none, the Fred P. Forye 5, the Eleanor B. Conwell 85.

These are gathered from the returns reported by them.

Mr. FOSTER. Do you submit that to our inspection?

Mr. DAVIES. Certainly. I would not have read it otherwise. (Explains, in answer to Mr. Foster, that these are returns of vessels that have been in the bay and gone home, as they reported themselves at Canso.)

Q. Now, have you heard of any of these vessels that made any of these returns?—A. I have heard of some of these vessels writing home.

Q. Have the returns you have heard accorded with those I have read?—A. I should think not.

Q. You don't know whether these returns are correct or not?—A. I don't know that they are.

Q. If they were, would you be inclined to modify your statement as to the catches in the gulf?—A. No, I would not.

Q. You still persist in the statement you made?—A. I don't know anything about it.

Q. But supposing it correct, if it turns out to be correct, from comparison with published returns in Gloucester papers?—A. Well, they might perhaps have the same information upon which that is based.

Q. You would consider the reports in Gloucester papers to be incorrect?—A. I didn't say any such thing.

Q. Would you place reliance upon them?—A. As a general thing I would.

Q. What did you mean by saying that the Gloucester papers might have the same information as that I have read?—A. The crews sometimes report more than they actually catch.

Q. Then we cannot believe the reports we see in those papers?—A. Well, there is a difference between sea barrels and packed barrels. Perhaps the mackerel would fall short.

Q. That is by the difference between sea barrels and packed barrels?—A. Yes.

Q. But could not any person easily allow for that?

Hon. Mr. KELLOGG asks if the returns just read are official.

Mr. DAVIES explains that the returns are those which the vessels make as they pass through the Gut of Canso—that they are not official, but that the information is gathered by persons engaged by the inspector to ascertain the catch from the captains.

By Mr. Trescot:

Q. Mr. Davies asked you a very simple question, which I am satisfied you could answer if it had not been prefaced by a remark which would astound any man. He asked you if you could turn back the wheels of time. I confess I could not do that. You said you were inspector from 1865 up to the present time?—A. Yes.

Q. I asked you this question: whether in that time, with your knowl-

edge of the business of Gloucester, you thought the mackerel-fishing had increased or diminished. You said that it had diminished in the gulf, but increased on the coast. Now, what he wants to know is this, whether you saw that diminution from 1865 to 1874?—A. Yes, sir.

Q. As inspector, you could see from 1865 to 1874—leaving out the last two years—could you or could you not see that there was a diminution in that number of years? That is all he wants to know. What is the answer?—A. I have.

Q. Now, there is only another question. Mr. Davies was very anxious to know how it was when you were off Margaree that you could not answer whether the fleet was with you fishing. Now, I propose to read to you an account given by a gentleman whose reports have been before us and have been referred to several times, his description of the mode in which you fish, and I think that will explain to the Commission exactly what was meant. It is from the report of Dr. Fortin, in December, 1859, I think. He says:

For this purpose they cruise with their vessels, as I have said already, in certain places, from sunrise to sunset, and I should add that in fair weather they stop every half hour, and sometimes oftener, to throw bait into the water, in the hope that some shoals of mackerel may see it and allow themselves to be attracted by it to the surface. The mackerel-fishing schooners, which are almost all good sailers, often sail from sixty to a hundred miles in a day on a cruise of this kind, and they may cruise for a week at a time, and sometimes longer, without taking a single fish. I met many of those schooners during my cruise in the gulf, and as I make it my duty to obtain all the information I can from them, I have often been told by captains who had been fishing a great part of the season that they had not taken fish enough to pay for the board of their hands, while others have informed me that they had loaded their vessels in the space of a fortnight or three weeks.

Now, the reason he cannot describe the fleet is because it scatters. Just explain now, without leading questions, how it is you cannot answer whether the fleet was fishing with you or not?—A. Every one knows that in the absence of fish they try all over the bay, and just as soon as one vessel finds them, all the fleet are around to charge for them.

By Mr. Davies:

Q. With reference to these years that you say the fleet decreased in the gulf and increased on the coast, did you ever examine the statistics to ascertain whether you were correct or not?—A. I saw from the Gloucester papers.

Q. You never went to the custom-house to examine the register there?—A. I thought you asked me to state whether between the dates you referred to the catch had increased in the bay. I referred to the catch.

Q. You didn't want to speak with reference to the number of vessels, but solely as to the catch?—A. Yes.

No. 27.

EDWIN SMITH, of Gloucester, called on behalf of the Government of the United States, sworn and examined.

By Mr. Trescott:

Question. You are a native of Gloucester?—Answer. Yes; of Rockport, five miles from Gloucester.

Q. It is included in the custom-house district of Gloucester?—A. Yes.

Q. What is your age?—A. Forty-one.

Q. How long have you been fishing?—A. Ever since I was 15 years of age.

Q. How long have you been a master?—A. It is about 18 years since I was first.

Q. What have you been fishing for?—A. Mackerel and cod.

Q. What year was it that you were first out as master?—A. I don't recollect the date. It was about 18 years ago.

Q. In what vessel?—A. The Ada.

Q. You fished in the gulf that year?—A. Yes.

Q. How many trips did you make?—A. Two.

Q. What was your catch and where did you fish?—A. We caught mackerel at the Magdalens most of the time.

Q. What was the catch? Just state the quantity.—A. About 150 barrels the first trip, and about 120 the second.

Q. Confined to what places?—A. The Magdalens mostly.

Q. You did not fish within three miles on that occasion, that you recollect?—A. No.

Q. Were you fishing in 1860?—A. Yes; mackerel-fishing.

Q. Do you recollect what you did that year?—A. Got about 800 barrels.

Q. Where?—A. At the Magdalens and Bird Rocks. I call it all Magdalens.

Q. Then you were fishing steadily?—A. Yes; right straight along.

Q. How far can your recollection go back?—A. Not further than 1872, I expect.

Q. Where were you fishing in 1872?—A. In the bay.

Q. Were you in command in 1872?—A. Yes; in the Etta Gott. We got them at Bradley. The second trip we picked up all round, a few at Bank Bradley, a few at the Magdalens, some off Cape George, what we call Fisherman's Bank.

Q. Were you fishing in 1873?—A. Yes.

Q. In what vessel?—A. The Etta Gott.

Q. How many trips did you make that year?—A. Two.

Q. How many did you get?—A. We took about one hundred and forty the first trip, and about two hundred the second.

Q. Where did you get them?—A. At the Magdalens.

Q. Were you fishing in 1874?—A. Yes, in the same vessel. We landed one trip and went back, and got about 100 barrels. We had, I think, about 200 the first trip; that is, we landed 200. Sometimes we don't take them all out.

Q. In 1875 where were you?—A. I was part of the year fishing, and got 40 barrels.

Q. Whereabouts?—A. Down about the Magdalens.

Q. What was the matter? Did you go in late?—A. Yes, in September.

Q. Were you there in 1876?—A. No, not since that.

Q. Well, then, during your fishing, you haven't had any inshore fishing within the limits that you have known?—A. None to speak of.

Q. Well, what do you mean when you say you had none to speak of?—A. Well, if I was catching fifty or sixty barrels, I would call it a pretty good catch; but if it was only two or three barrels I would not take much notice of it.

Q. You mean that you have at times got as much as fifty or sixty barrels within?—A. At Limbo Cove I caught seventy-five barrels.

Q. Where is that?—A. Well, Cape St. Lawrence makes the east side of it. It is on Cape Breton Island, the north side.

Q. And you say you got these seventy-five barrels within?—A. I

would not say that. That is the nearest to the shore that I caught them.

Q. How near?—A. About five miles off.

Q. Could you tell without any difficulty how many miles off you were when you have undertaken to guess?—A. I could tell with most land. I would be mistaken sometimes.

Q. Where?—A. Off Cape Mabou. I stopped for water and lowered my boats. I thought I was so near that I could scull ashore, but I found my mistake. It was very high land.

Q. How near did you think you were to the shore then?—A. I thought I was about two and a half or three miles.

Q. What did you find it to be?—A. I think I was all of five miles. Then when I went up on a hill and looked down my vessel seemed to be right in. When I went down she was a mere speck to what she would be if she was in there. But you can most always judge around Prince Edward Island; the land is lower and leveler.

Q. I would like to know, in this testimony, as to your experience of your fishing; were you fishing generally with the fleet?—A. Yes, sir; with the Gloucester fleet.

Q. Were you with them all the time?—A. Most of the time.

Q. Without undertaking to say whether each vessel of the fleet had the same experience as yours, your general impression is that your experience was that of the fleet?—A. Yes; they most all fished around where I fished.

Q. With your experience in the mackerel-fishing, do you think it is falling off?—A. A. I think it is getting less profitable. I went as long as I could stand it.

Q. Do you mean in the bay or on the coast, or both?—A. I can't say on the coast. The last year was about as good as we have had on the coast.

Q. Can you tell how much a sea barrel shrinks in packing?—A. We allow that they shrink one in ten.

Q. Now, with your experience in 1873, 1874, and 1875, what would a barrel of mackerel fetch clear of the expense of packing?—A. Well about \$9, clear of all expenses.

Q. With your experience as a fisherman of Gloucester, and your knowledge of the industry, what do you think is the opinion of those who know and are familiar with the industry, as to whether they would rather have the privilege of coming within three miles of the British shores to fish or have the old duties on the fish that come into competition with theirs?—A. They would sooner have the duty and give us our own market for our fish.

By Mr. Davies:

Q. Why would you rather have the duty?—A. I think we would get more for our fish.

Q. You speak as a fisherman; you want to get the most you can. How much do you think you would get?—A. As much as the duty.

Q. I don't know but you are right. Perhaps you would like to have a little more on. Supposing a duty of \$3 was put on, I suppose it would still have the effect of raising the price of fish?—A. I think it would kill us. No; let me see. I don't know anything about that. I think by keeping the English fish out, our fish would bring a better price.

Q. Did I understand you to say you had been fishing from 1859 to 1875 every year consecutively?—A. Well, most every year. I would not go over the different years.

Q. You haven't fished very much on the American coast, have you?—
A. No, sir. Well, at times I have.

Q. But you didn't fish there so persistently as you have fished in the bay?—A. No.

Q. How often have you been on the American coast?—A. One whole season, and probably six or seven other seasons, part of the season.

Q. That would be one trip a season?—A. A number of trips on our own coast. Perhaps eight or ten trips.

Q. Well, you seem to have preferred bay fishing, and during your experience you came every year?—A. No; I was sent there. We have such a number of vessels for the bay, such a number for our own shores, and such a number for the Grand Bank.

Q. Your owners preferred to send you to the bay?—A. They generally sent those best acquainted; those that fished there most. Some skippers have never been there.

Q. They preferred sending you to the bay rather than on your coast?—
A. Yes.

Q. Can you remember the seasons between 1860 and 1872?—A. No; nothing reliable. I could remember some circumstances, perhaps.

Q. But you cannot remember sufficiently accurately to give the Commission any information upon which to rely?—A. I was in a vessel from Rockport, the Ellen and Mary.

Q. You don't remember the year?—A. No.

Q. Do you remember how much you got?—A. 120 barrels for the year.

Q. That was a poor catch?—A. Yes.

Q. Very poor, wasn't it?—A. Yes.

Q. Is that the poorest you ever made?—A. No.

Q. What is the poorest?—A. Forty barrels.

Q. What year?—A. I have known plenty get less than that.

Q. But was 120 the poorest you made, or was it a fair average?—A.
It was a little poorer than every year.

Q. It was a little poorer than the average of years?—A. Yes.

Q. Would I be correct in putting the average at 140 barrels?—A. Yes,
I should say so.

Q. You have fished generally at the Magdalens and Bradley and Orphan Bank?—A. Yes.

Q. You have not fished in Bay Chaleurs much?—A. No.

Q. I don't think I heard you mention it?—A. I have been there trying. I never caught any fish.

Q. How often have you been trying?—A. Three times.

Q. You have never made it a rendezvous?—A. No; I was driven out the last time. The cutter drove me out, and I have never been there since.

Q. Three times you have been in, and once you were driven out. The other twice did you fish within three miles?—A. No.

Q. Are you quite sure?—A. No.

Q. Then you caught no fish?—A. Very few; 7 or 8 barrels.

Q. What year were you driven out?—A. I would not pretend to say.
I think it was somewhere about 1867, or along there.

Q. Did you take a license at all?—A. No.

Q. No years?—A. One year.

Q. Which year?—A. When I was in the Ellen and Mary.

Q. You can't remember the year you took a license?—A. No.

Q. Have you ever fished along Prince Edward Island shore to any extent?—A. No.

Q. Perhaps you never were there at all any year?—A. Yes; I have been up and down the island often. I never stopped to fish much.

Q. What times of the year did you generally go?—A. July or August.

Q. What were you doing going up and down if you never fished?—A. Coming from Bank Bradley.

Q. Does it necessarily follow that you must go up and down the island within three miles?—A. No; we never go within that distance when we go up and down. We were just in sight of land.

Q. You speak of passing the island going to the Magdalens and Bradley. What I speak of is going there purposely to fish?—A. No.

Q. You have never gone there any time for that purpose?—A. No; not to fish.

Q. As a matter of fact, have you ever fished within three miles?—A. Yes; I suppose I have caught half a barrel within three miles.

Q. Well, down about the Cape Breton shore, you never went there very much?—A. Yes; I have been there.

Q. Did you fish around Margaree and Cheticamp?—A. No.

Q. You never fished there at all?—A. I might have got a barrel or a couple of barrels.

Q. Practically, then, no quantity of your fish has been taken around any of those shores?—A. I got 75 barrels.

Q. Those you say were caught five miles off?—A. Well, I call that on the shore. If I am nearer Cape Breton than the Magdalens, I say I am on Cape Breton.

Q. You didn't even get a half barrel of those 75 barrels on the Cape Breton shore within?—A. I said that down about Margaree I have caught two or three barrels.

Q. Have you fished at Seven Islands?—A. No.

Q. Nor along the shores of the St. Lawrence River at Gaspé and Bonaventure?—A. No.

Q. You have confined yourself to the Magdalens and Bank Bradley?—A. Yes.

Q. Have you heard of any American fishing-vessels fishing at those places I have mentioned?—A. Yes.

Q. Have you heard them spoken of as fishing grounds?—A. Yes.

Q. Which of them?—A. I have heard of vessels fishing at Prince Edward Island. When we heard of vessels fishing there we didn't hear whether it was two or ten miles off that they fished. They might be seven or eight miles.

Q. Then you never were there, and you can't tell whether the fish were caught within three miles or outside. You don't profess to say that?—A. No, I never was there.

Q. Well, you never were there except but once when you caught half a barrel?—A. I said I was several times up and down.

Q. But that was outside?—A. Yes.

Q. But inside I am speaking of?—A. I never heard of vessels making any large catches inside of three miles.

Q. Did you ever hear it spoken of, when you heard of vessels having caught fish at Prince Edward Island, whether it was inside or outside?—A. No.

Q. You have heard of Prince Edward Island as a fishing resort?—A. Yes, I have heard of that, but I never fished.

Q. But you have heard it spoken of as a fishing ground?—A. Well, nothing more than any other part of the bay.

Q. Have you ever heard it spoken of as a resort for fishermen?—A. Yes.

Q. Generally among the fleet?—A. No, by very few.

Q. Your opinion is that very few of the Gloucester men ever went there at all?—A. Yes.

Q. I suppose there might be two or three?—A. Yes.

Q. Those places down about the Cape Breton shore—what have you ever heard about them? Are they more frequented than Prince Edward Island?—A. Well, about the same.

Q. Two or three vessels?—A. There might be more than that. I never fished there much myself.

Q. But speaking of what you have heard?—A. I don't think it is a favorite ground.

Q. Cape Breton is not a favorite ground?—A. No, I don't think; I should not go there myself.

Q. I ask you whether you have heard any of the mackerel fleet speak of having gone?—A. O, yes.

Q. What numbers?—A. Fifteen or twenty sail.

Q. That would be about what you would think?—A. Yes.

Q. You say you were generally fishing with the Gloucester fleet?—A. Yes, sir.

Q. Do you mean that to refer to all the times you were in the bay—different years?—A. Most all the times.

Q. How many were there in this fleet?—A. Sometimes there would be 20 sail, and sometimes, perhaps, 130.

Q. Not more?—A. No.

Q. How many were there in 1876? You were not there in 1876?—A. No.

Q. Now, in the fall of the year, have you ever been in Port Hood?—A. Yes.

Q. What were you doing in there?—A. I was there for a harbor.

Q. For the night?—A. Yes.

Q. Why would you go all the way down from Bradley Bank or Magdalen Islands for a harbor?—A. It was near the time we were going home, on the way home. We fished off East Point and Port Hood.

Q. You never mentioned that, did you?—A. There are plenty of grounds I haven't mentioned that I fished on in the bay.

Q. Then you used to fish down between East Point and Port Hood?—A. Yes.

Q. Didn't you chiefly fish there in the fall?—A. No; I staid at the Magdalens until it got pretty late.

Q. It was a mere accident that you went there, or did you go intentionally, knowing it was a good fishing-ground?—A. We went there for the last catch. We would try along there before we went home.

Q. What induced you to take a license if you never fished within three miles?—A. To be on the safe side.

Q. But if you never went in within three miles there was no unsafe side?—A. I dare not fish within seven miles for fear of a cutter coming and taking me.

Q. Did you ever see a cutter take a vessel seven miles off?—A. No; I have heard of it. I have been driven out of Bay Chaleur, and told that if I was caught in there again I would be taken.

Q. Can you give me the name of the vessel you heard of that was taken within seven miles?—A. No; but a number of vessels I have heard of.

Q. Could you name your informant?—A. I could not say that, either. But I have heard a number of times.

Q. Can you give me the name of the cutter that seized these vessels seven miles off?—A. No, but probably others could. Probably plenty could. I could not personally.

Q. You really are sincere in the belief that vessels have been taken seven miles off?—A. Five miles I believe they have been taken.

Q. Will you swear to that?—A. No. I said I didn't see it myself, but still I would not be lying seven miles off if I saw a cutter coming. I would calculate they would take me, from my experience when I saw the men that boarded me.

Q. They boarded you?—A. Yes. They jumped on board and blustered around until I thought I was going to be hanged. The captain said, "Get out of the bay; if I catch you here again I will take your vessel." There was a number of vessels taken about that time.

Q. Who was in command of the cutter?—A. I could not say.

Q. Where were you then?—A. In the Bay Chaleurs.

Q. What year?—A. Somewhere just before I was in the Etta Gott.

Q. Can you give the year?—A. No, I could not.

Q. You were in the bay at the time?—A. In the Bay Chaleurs.

Q. Whereabouts?—A. Running out from, I should think, half-way between Port Daniel and Point Miscou.

Q. You were just at the mouth clearing out?—A. Just inside the mouth. He stopped every vessel and would not let one go by.

Q. They frightened you so you took a license for fear you would be taken?—A. Not that year. It was the next year that I took a license.

Q. Not that you ever thought that you would have occasion to use it?—A. No.

Q. Did you go within when you had a license?—A. Yes, a number of times.

Q. Whereabouts?—A. Off Cascumpeque.

Q. What, on the Prince Edward Island shore? Didn't I understand you never had been there fishing?—A. I don't say now that I was fishing there.

Q. What did you want there?—A. A harbor.

Q. Why would you run there for a harbor?—A. It was handy where we were fishing.

Q. Where were you fishing that it was handy?—A. We were coming from Bradley.

Q. Where to?—A. No place. We were coming with the fleet, running promiscuous-like.

Q. Will you swear you were not running along there with the fleet to fish?—A. No; if there had been fish there we would fish.

Q. Will you swear your intention was not to run around and fish?—A. No, I would not swear.

Q. Did you try to catch them?—A. I call it fishing when I catch fish.

Q. Trying to fish when you don't catch them is not fishing?—A. No, I don't call that fishing.

Q. Did you catch none at all?—A. Three or four we might have caught.

Q. That was fishing?—A. Well, no, we do not call it. Generally speaking, anything over two or three barrels we call fishing.

Q. When you were there did you ever go near enough to see whether the coast was well lighted?—A. It is.

Q. All around?—A. It is, very well.

Q. Is that useful and necessary to fishermen?—A. Yes.

Q. You find those lights very useful?—A. Yes.

By Mr. Trescot:

Q. Mr. Davies thinks that the reason you made very small catches was that you did not fish inshore. I understand that the smallest catch was 140 barrels; what was the highest?—A. 800 barrels for the season. That was a long time ago.

By Mr. Davies:

Q. That was 1860?—A. It was the first year after I had been a skipper.

No. 28.

MONDAY, *October 1, 1877.*

The Conference met.

JOHN MCINNIS, of Gloucester, Mass., mariner, called on behalf of the Government of the United States, sworn and examined.

By Mr. Dana:

Question. You are a native of Cape Breton?—Answer. Yes.

Q. How many years have you lived in Gloucester?—A. 13 years.

Q. Did you go fishing before you went to Gloucester?—A. I went from Provincetown fishing.

Q. But before the 13 years?—A. No.

Q. Your first fishing voyage was 1863?—A. Yes.

Q. From Provincetown?—A. Yes; in a vessel called the Virgin Rock.

Q. With hand-line or trawls?—A. Hand-lining.

Q. What bait did you use?—A. Salt bait.

Q. How much did you take?—A. 45 barrels.

Q. But I mean how much fish did you take?—A. 1,200 quintals.

Q. How long were you gone?—A. Three and a half months.

Q. Was it a good trip?—A. Yes; we were full.

Q. In 1864 did you go to the Banks again?—A. Yes, sir.

Q. How much did you take?—A. We got 1,100 quintals.

Q. Were you full?—A. Yes.

Q. Did you use salt bait?—Yes.

Q. In 1865, where did you go?—A. To the bay.

Q. For mackerel?—A. Yes; from Wellfleet.

Q. How many trips did you make?—A. Two.

Q. Did you land the first trip, or go home with it?—A. We went home.

Q. What was it?—A. Six hundred barrels the first, and the second 500.

Q. What was the name of the vessel?—A. The T. G. Curtis.

Q. In 1866 and 1867 you went away?—A. I went to sea. I went to California.

Q. You were in merchant schooners?—A. Yes.

Q. What was the next year you went fishing? In 1866 and 1867 you were away. Did you go fishing in 1868?—A. Yes. I went as master from Provincetown to the Banks.

Q. How many quintals did you take?—A. Twelve hundred.

Q. Were you full?—A. Yes.

Q. Did you have hand-lines, or both lines and trawls?—A. Both.

Q. Did you fish with salt bait?—A. Yes.

Q. By the way, you did not come here as a witness, did you?—A. I came here; I did not know anything about this. I came here for ice.

Q. In 1869 you were on the Banks?—A. Yes.

Q. How many quintals did you get?—A. Eighteen hundred.

Q. With salt bait?—A. Yes.

Q. Did you have hand-lines, or both?—A. Both hand-lines and trawls.

Q. In 1870 where did you fish?—A. On the Georges Bank.

Q. Did you fish on any part of the American coast?—A. No.

Q. You make short trips, I suppose?—A. Yes.

Q. It would be hard to tell what you took?—A. I could not tell exactly; we made thirteen trips.

Q. When did you go to the Georges?—A. In February, the first of February.

Q. What bait did you use the first part of the season?—A. Frozen herring in February and March and the first of April.

Q. In the summer you used?—A. Pogies.

Q. You caught cod and halibut both?—A. We caught codfish and halibut both.

Q. In 1871 where did you go?—A. We went to the Banks.

Q. In 1872, where?—A. To the Banks.

Q. In 1873?—A. We went to the Banks in the spring and to the Bay in the fall.

Q. All those seasons you went to the Banks did you always go into the bay in the fall, or only in '73?—A. Only '73. I was to the Banks in the early part of the season and to the bay in the fall.

Q. Where did you fish in the gulf?—A. At Bradley Bank most of the time.

Q. How much did you catch?—A. 270 barrels.

Q. Did you catch any within three miles?—A. No.

Q. Where did you catch most of them?—A. We caught most at Bradley Bank, and a very few at the Magdalens.

Q. Did you occasionally try to fish near in?—A. I did occasionally, but never caught anything worth speaking of.

Q. Did you try Prince Edward Island?—A. I did.

Q. How near in did you try?—A. Maybe two miles, and maybe three miles.

Q. What do you say to the bend of the island as a fishing place in midsummer?—A. I say it is no place.

Q. For what reason?—A. You cannot make any lee. There are no harbors.

Q. Have you been in Malpeque or Cascumpeque?—A. I have.

Q. What sort of harbors are they?—A. Very poor harbors.

Q. In 1874 were you on the Banks again?—A. Yes.

Q. Have you been there ever since?—A. Yes, I have been there ever since.

Q. You have gone in the bay fishing this year?—A. No, not since 1873.

Q. Your experience in the bay fishing has been altogether outside of three miles, all you have caught?—A. Yes, outside of three miles.

Q. You have fished out of Gloucester for the last how many years?—A. I have fished out of Gloucester since nine years now.

Q. Now, what is the principal dependence of Gloucester in fishing?—A. Codfish and halibut. Codfish is the principal part of it.

Q. Slightly more, or almost altogether?—A. The principal fishing altogether is cod-fishing.

Q. Of how much importance to Gloucester is the bay fishing for mackerel?—A. It is of very little importance.

Q. Has it run down?—A. It has run down—it has decreased greatly.

Q. Do you know anything about the shore fishing from Gloucester,

including the Georges and the American coast?—A. I know something about it.

Q. Has it increased or decreased?—A. It has decreased this year. They did very well last year, but it has decreased this year altogether.

Q. Is the bay fishing anything this year?—A. No, I didn't hear of them doing anything. I was down in Canso. I saw some of the Gloucester vessels in there.

Q. Now, from your experience on the Banks, you have been in for bait?—A. Yes.

Q. What is the average time you calculate to be absent from the Banks?—A. The average is ten days. I calculate—I am sure, that if they would take salt bait from home, and stop on the Banks using the salt bait, they would do better.

By Mr. Davies :

Q. When did the fishermen commence to use fresh bait?—A. 1873 was the first year it was used.

Q. Were there many that used it the first year it was commenced?—A. No, not many.

Q. Has the use of it increased to any extent?—A. It has greatly for the last three years.

Q. How much?—A. I don't know. All the Gloucester vessels use it now, but the Provincetown vessels do not.

Q. The Gloucester vessels are much more numerous than the Provincetown vessels? Which is the largest in number?—A. The Gloucester vessels.

Q. What proportion do they bear to the others; three to one?—A. I should say four to one.

Q. All the Gloucester vessels use fresh bait now?—A. As far as I know.

Q. You think it takes about an average of ten days to go in and get out?—A. Yes.

Q. What does it cost you to get this bait?—A. It will cost us about \$100 each time.

Q. I don't mean the cost of the trip, but of the bait?—A. That is what I mean—\$100.

Q. How much bait do you use?—A. 60 barrels, sometimes 50 and sometimes 60.

Q. Each trip?—A. Yes.

Q. How many trips?—A. Four trips.

Q. Are you now on your way from the Banks?—A. Yes, I am on my second trip now.

Q. These two trips how many times have you been in for bait?—A. The other trip I was in four times. This is the second bait I am now for. I came in for bait and ice now.

Q. Is this the first time this trip?—A. Yes, this is the first time in from the Banks, but I took bait with me when I went out.

Q. What did you catch the first trip this season?—A. I had 146,000 pounds of codfish.

Q. Is that a pretty good catch or not?—A. A very good catch.

Q. Do you consider it above the average or about it?—A. It is a little above.

Q. Have your vessels all done pretty well?—A. The bankers have done decently well, but they have been a long time gone this year.

Q. How is the bait obtained when you go in?—A. They fish them sometimes in weirs, sometimes with seines, mostly altogether with seines.

Q. Do you catch the bait?—A. We buy it from the natives there.

Q. Do you employ any men to go to catch it for you?—A. Yes; we employ the natives.

Q. I have never been there and would like to know: now supposing you went in, how would you proceed to get bait? What would you do?—A. A fisherman would take his seine and go and catch it for us, and we would buy it.

Q. Do you employ them?—A. Yes; we employ them before they go

Q. But do you agree to pay them so much?—A. We agree to give them so much for so many barrels of herring.

Q. The Bank fishing, I understand, is increasing, and is pretty good of late years?—A. Yes; I don't know if it is increasing much. Our vessels get good trips there.

Q. Now, with reference to the American shore fishing; has it increased, or is it decreasing?—A. I say it is decreasing.

Q. Very much?—A. Very much this year.

Q. Taking three or four years, or four or five years back?—A. It has been decreasing for the last four years.

Q. Has it diminished to any material extent?—A. Well, it has to a great deal. It is nothing like it used to be 13 or 14 years ago.

Q. You say each trip in for bait cost you \$100?—A. Yes; for ice and bait, port charges, and everything, light-moneys. I call everything \$100.

Q. I didn't understand that they charged anything now for port charges?—A. They do; I paid \$18 this summer, that is once a year. There are harbor-dues, water-rates, cleaning, &c.

Q. How many barrels of bait do you take each time?—A. Sometimes 50 barrels and sometimes 40. Some vessels take 60 barrels.

Q. How much a barrel do you pay for that?—A. We pay so much for the lot. It is just according to how the herring are. If they are plenty we pay less, and if they are scarce we pay more. Sometimes it is \$1 a barrel, sometimes \$1.50, and sometimes \$2.

Q. From one to two dollars?—A. Yes.

Q. Do you pay so much a barrel, or employ a man and pay him so much in the lump?—A. We will employ a man that has a seine, and he will go catching herring for so much; it may be \$30, \$40, or \$50 for all we want. If we want 40 barrels, we will give, say, \$40; if they are scarce, perhaps more. He will take a seine, and perhaps be two or three days looking after them.

Q. You say, "I will give you \$30 or \$40 (as the case may be) to go and catch me so many barrels"?—A. Yes; that is the way it is done, and then sometimes we give \$10 for ice.

Q. Do you give any assistance in catching them?—A. Sometimes we do.

Q. You send some of the men?—A. Yes; sometimes we do. It depends upon how he works himself. If he is a sociable good man, we give him help; if he is not, we let him do it himself.

Q. Does that affect the price?—A. Well, we don't say anything about giving him any assistance. Sometimes we give it. Usually they use drag-seines, and have to haul them ashore.

Q. Well, how many vessels from Gloucester are now engaged in the Bank fishing?—A. I suppose there may be 250 or 260. There are 488 vessels, I guess, last year on the register of Gloucester, almost 500 sail. They don't all go on the Banks. I suppose 200 go on the Banks. The others are round the Georges and their own shores and in the bay. A great many go to the Magdalens, and a great many to the Georges.

Q. You get your bait sometimes in Newfoundland and sometimes

here?—A. We don't come here for bait from the Grand Banks. It is when we are fishing on the Western Banks. From the Grand Bank we don't come here at all.

Q. The prospects are for a pretty good season, are they?—A. O, yes.

Q. You always buy ice where you get bait, necessarily?—A. Well, we can't buy ice sometimes where we get bait. Sometimes we get bait in the outer harbors where we can't get ice. There is no ice between here and Canseau. If I don't get it here, I have to go to Canseau. There will be places below here, towards Ship Harbor and other places, where I may get bait.

Q. It is only of late years that this came up, this practice of going in for bait?—A. Since '72 or '73, most of it. Now it is only the Gloucester vessels that go for bait and ice, and if they would all go and take salt bait and stay out and fish with it they would do better, because they don't gain as much as they lose with the fresh bait, but if part of them go in for it they will all go.

Q. Why is that?—A. I don't know, I am sure.

Q. Has not the fact that, when fresh bait is being used, the fish won't take the salt bait, something to do with it?—A. Well, they used to do better, but the Gloucester people got in the way of going in for bait, and they are doing so. I think they are losing by it. If you lose 10 to 12 days each time, that is 40 or 45 days in the season.

Q. But then, if you catch more fish while you are there?—A. I say you will catch more, but don't you see the time you are losing?

Q. I think you said you were two years in the bay for mackerel, one of them only the fall, and the other the whole season?—A. Yes. In 1865 I was in the T. G. Curtis, from Wellfleet.

Q. How much did you say you got?—A. 1,100 quintals.

Q. That was a pretty good season's work?—A. Yes.

Q. When you fished in the bay, were there very many vessels there fishing then?—A. A good many vessels.

Q. Where did you fish?—A. We tried East Point, and went from there to Point Miscon, then to Bonaventure, then further up in the bay.

Q. Had you a license?—A. I don't know. I was not master of the vessel.

Q. You tried up about Point Miscon and Bonaventure. Did you take anything there?—A. No; we didn't get a great many there. Then we went to the Magdalens, between Magdalens and East Point. That is where we got the most.

Q. Where else did you catch them beside?—A. Some at the Magdalens and a few off East Point.

Q. And around the shores of your island?—A. Abroad off there. Maybe eight, nine, or ten miles off there.

Q. And at Margaree?—A. In the fall we did. We got some off Margaree and Sydney.

Q. How many did you get off Margaree and Sydney?—A. We got 200 barrels off Sydney, in the fall abroad off Sydney, between that and St. Anne's.

Q. How many did you get off Margaree?—A. We might have got them eight, nine, or ten miles off, sometimes closer in.

Q. Did you take any within three miles off Margaree?—A. I don't think so. We might have caught a few, but none to speak of.

Q. Are you quite sure? Can you recollect with sufficient clearness to enable you to state how many?—A. We got most of them off shore. As far as I know, we got them all over three miles off.

Q. Between Cheticamp and Margaree might you have caught 100

barrels?—A. We might have caught more than that. It might be 200 barrels.

Q. And then 200 off Sydney?—A. Yes; we caught them there.

Q. But you did not succeed at Prince Edward Island that year?—A. No; nothing at all.

Q. And at Point Miscou, you did not do anything?—A. No.

Q. What is the tonnage of your vessel?—A. This vessel, the T. G. Curtis, was about 80 tons, new measurement.

Q. How many hands?—A. Sixteen hands.

Q. What was the tonnage of the vessels you fished in on the Banks?—A. 60, 70, or 80 tons. This vessel I am now in is 70 tons. The one I was in last year and have been in for the last four years was 60 tons.

By Mr. Dana :

Q. Whatever fish you say you caught in 1865 at Margaree and Sydney was abroad off; that is more than three miles?—A. Those two hundred barrels at Sydney were more than five miles off.

Q. You were asked as to the mode of getting bait, whether you employed those men that went for herring. Do you pay them wages, or pay them after the fish are caught?—A. We employ them before they go.

Q. But you don't pay them wages?—A. Yes, we have to pay them. If he goes and loses two or three days we have to pay him.

Q. But you pay them wages, so much a day?—A. No, so much for the herring.

Q. Not by the time?—A. No.

Q. Nor in a round sum of money whether they catch or not. You don't pay them except for the herring they catch?—A. That is all. I pay according to the quantity that I want myself. Sometimes he may haul 200 barrels, and I take what I want.

Q. You don't pay so much and take all he catches?—A. No, I take what I want, and pay him for what I take.

Q. You agree upon the price before he goes for them?—A. Yes. If he has them we take them. Sometimes when we get to Fortune Bay they have them.

Q. Then the first thing you do is, if they have them to sell, you buy them by the barrel and take them aboard?—A. Yes.

Q. And if they haven't them you agree upon the rate per barrel which you pay?—A. Yes.

Q. You tell him you don't want more than so many?—A. Yes.

Q. You don't pay them whether they catch or not?—A. Yes; sometimes, if I employ a man to go and catch them, if he loses three or four days sometimes I pay him.

Q. Are you obliged to do so or is it good nature?—A. Well, I never have employed a man yet but what he got my herring.

Q. According to your bargain you say you pay him for what he catches?—A. For what we take.

Q. I mean that. And you won't take any more than you have agreed?—A. No. If it is one barrel I take it.

Q. You go into port and want, we will say, 50 barrels. You can buy 30 and want 20 more. Now you tell him you want him to catch you 20 barrels, and just give him so much a barrel?—A. Yes, that is agreed before he goes.

Q. And if he comes back with ten barrels, or but one, you give him so much a barrel for them?—A. If he brings me ten barrels I pay him for ten; and if he brings me one, I give him the money for one; if forty, I give him the money for forty. If he brings me more than I want, he can have them himself.

Q. Do you know much about fishing with pounds and nets on the shores of Massachusetts?—A. No. I don't know anything at all about pounds and nets. They have some pounds over there at Cape Cod. I don't know anything about them.

Q. But you know that from Gloucester all up and down the coast of Maine a great deal of inshore fishing is done with nets and seines and pounds?—A. There are not a great many pounds on the coast of Maine.

Q. Are there on the coast of Massachusetts?—A. There are at Cape Cod.

Q. They fish from the shores with nets and seines?—A. Yes.

Q. Do you know much about that?—A. I have seen them hauling in their nets.

Q. Has not that kind of fishing on the coast very much increased?—They have increased in the business, but the fish have decreased. The fish are decreasing all the time.

Q. The number of fish caught?—A. Yes; but the business has increased.

Q. How can that be?—A. I mean the vessels and the boats.

Q. More vessels, boats, and seines are employed than there used to be?—A. Yes.

Q. One word more about the people in Newfoundland. Do they depend upon the Americans for selling their ice and herring?—A. Decidedly they do. There is nobody else there that buys, except us. They don't use any ice except what we want. There is no other nation wanting the herring except the Americans.

Q. Is it a sure thing to get bait there?—A. It has been a very sure thing. It has always been since I have been there.

Q. What about those vessels that are there so long and don't get bait?—A. Spending their time in foolishness, I suppose; I don't know.

By Sir Alexander Galt:

Q. About this Newfoundland bait; you have spoken of herring only, but we have heard here that there are caplin and squid?—A. Yes.

Q. Now, what do you do about those? Do you buy them?—A. We buy the squid and caplin too.

Q. And do you get them under the same sort of arrangement that you have described?—A. No; we buy the squid by the 100 pounds, and the caplin by the barrel.

Q. Do you catch squid yourselves?—A. No; we buy them.

By Mr. Davies:

Q. Do you ever assist in catching squid?—A. No; we pay them forty or fifty cents a hundred. We are paying pretty high, and don't feel like assisting them. If a man catches four or five thousand squid in one day at that rate he is doing pretty well.

Q. One question more. Do I understand correctly that if you employ a man to catch herring, and he is unsuccessful, you consider yourself bound to pay him?—A. I would pay him, but I never had to do so. I never employed a man but what he caught them.

No. 29.

JOSEPH O. PROCTER, of Gloucester, Mass., merchant, called on behalf of the Government of the United States, sworn and examined.

By Mr. Trescot:

Question. You are a native and resident of Gloucester?—Answer. I am.

Q. What is your business?—A. The owning and running of fishing-vessels; taking care of their products is part of my business, perhaps the larger part, and other business connected with it.

Q. How long have you been engaged in your business?—A. I commenced in 1841, as a boy 12 years of age, with my father. I was with him until 1848. He died in 1848, and I then continued the business. On January 1, 1849, I commenced business on my own account, 19 years of age.

Q. You have continued ever since?—A. Yes.

Q. What species of fishing have you been engaged in?—A. Principally codfish. But I have had some vessels for mackerel and halibut and all departments.

Q. What fleet of vessels do you employ yourself?—A. The average is about 12, sometimes 13 and 14, perhaps down to ten. I have had as high as 14, and have now 13.

Q. Can you give me any idea of the character of your business for any past number of years? Could you, within a number of years, give me an accurate statement of the vessels and their results?—A. I haven't any figures to give you the results of the work in any department except mackerel.

Q. How far back is that?—A. I have from my books the figures to give the results of the fishing in British waters for 19 years.

Q. You can use any memorandum you have prepared from your books, explaining to the Commission how you have prepared it, and I will hand it to counsel on the other side. How many vessels have you employed in the bay in these 19 years?—A. They vary from 1 to 8. The highest number since 1866 has been 8 and the lowest 1.

Q. Give me the number of vessels you have employed from year to year in that branch since 1866.—A. In 1866 I had 7; in 1867, 7; in 1868, 8; in 1869, 3; in 1870, 2; in 1871, 3; in 1872, 5; in 1873, 9; in 1874, 7; in 1875, 5; in 1876, 1; and in 1877, 1.

Q. What has been the result of that nineteen years' fishing? State the amount, if you can, for each year.—A. Might I explain that some of those vessels have made two trips and some one? I have the number of trips.

Q. How many trips did you make, and how many barrels of mackerel?—A. 170 trips my vessels made; that is, beginning with 1857 and ending with 1876.

By Mr. Davies:

Q. Can you give us the number of vessels from year to year, from 1857 down?—A. I cannot answer that further back than 1866.

By Mr. Trescott:

Q. You say your vessels made 170 trips in nineteen years. What number of barrels did they take?—A. 30,349.

Q. What was the average number for those trips, running over the nineteen years?—A. 183 barrels; that is, packed barrels.

Q. What was the average value of your mackerel during that time?—A. The average value was \$11.57 for 200 pounds of fish, exclusive of packing.

Q. What was the average value of the trips? Give me a rough estimate of the result of those trips, the average. Taking the average trips of that number of barrels at that average price, what was the result to you?—A. I make the result as no profit, so far as pursuing the business is concerned. I consider the gross stock, the barrels of mackerel at that price, taking the charge for bait, and dividing as we divide the proceeds,

one-half among the crew, and one-half to the owners. The one half to the crew, where the vessel averaged fourteen hands, and taking the average time, ten weeks, on the trip, or two and a half months, make the wages of each man per month \$27.64. The owner's half of the voyage is \$968. Against that, pay insurance, commission to master, provisions, oil, fuel, salt to cure that quantity of fish, and fishing gear, the vessel's running expenses, depreciation of vessel, and interest on investment, and those items amount to \$1,096, which makes an average loss of \$128.

Q. I would infer from this that in the nineteen years of mackerel-fishing, so far as the mackerel-fishing itself is concerned, you have lost?—

A. There is a loss directly.

Q. It seems that in the nineteen years you have been sending vessels, and they have made as you say 170 trips, you have lost on the average \$128 a trip. Now, how can you explain that you continued such a business as that?—A. It may be partly explained in this way. These items that make up this cost are where the fitter owns the vessel and runs it. There are certain items here that we consider vessel charges directly and certain that are expenses of the voyage. There are certain items that are directly charges against the vessel. Insurance \$1.25, running expenses \$200, depreciation \$100, interest or investment \$175; in all \$500. Thus those would be offset. If I being in the business, should charter a vessel, I would pay a certain price as charterer. In which case these items would be against the owner of the vessel. The charter of a vessel of the average tonnage we used would be \$2 per month per ton. That would be a low charter. We may say that would be an average charter. It is as low as ever they are chartered. The average tonnage is 90, carpenter's measurement, which, at that rate, would make it \$180 a month for a vessel. Take two and a half months, and the time occupied in fitting would be three months, and that would make the whole amount for the season \$540, that would be for the use of the vessel for this voyage. These items and charges I make amount to \$500, so these are within the amount that would be paid for the charter for a vessel to pursue the same voyage.

Q. But what I want to ask you is this: It is evident that your mackerel-fishing is not profitable according to your statement. How is it that with so little profit, or rather with so much loss, you find it necessary to keep up the mackerel-fishery?—A. There have been seasons, as will be seen, and as we all know, when there has been some profit in the mackerel business. While we were in the war the prices were very high. Those seasons there was a profit in the whole business, mackerel as well as codfish jointly. But for the series of years, taking the nineteen years together, it brings that result. We haven't been aware until we figured that the business stood just in that position. This is a part of our business—a small part. The business is largely codfish business. There are three or four months of mackerel fishing during the warm months. We pursue cod-fishing six or eight months, and this business comes in after the men are tired catching codfish, and they go mackerel-fishing. It is an easy business and they have got used to going in the bay fishing with lines. Some years we have good seasons and others poor, but taking the aggregate that is the result.

Q. You could not afford to pursue the mackerel fishing by itself, and you use it simply as supplementary to your other business, to keep your crews together and your vessels employed?—A. We have to keep our vessels employed all the year in order to hold the men together. They are fishermen, and have no other business, and we have to keep them

employed to keep the business. We furnish provisions. There is a profit on that item to offset the loss. We handle those provisions and there is a slight profit on them. We handle the mackerel also, and in packing them we furnish barrels, and have a profit of thirty to thirty-five cents a barrel.

Q. Then I understand that having employed your vessels in the cod fishery, you employ them in the off months in the bay for mackerel, looking forward simply to keeping them employed, and if possible guarding against loss, or making a little profit, but that the bulk of the profit that you make is in connection with the provisions and the handling of the produce?—A. Yes.

Q. So the mackerel fishery, as an industry, could not be prosecuted by itself with any chance of profit?—A. No; I could not continue in the business if we had nothing but the mackerel.

Q. Could you form any idea of the relative yield of the mackerel fishery and the cod fishery that you conducted at the same time, or for any one year? Could you show the difference between the profit of the mackerel fishery and the cod fishery, which is your main business?—A. The larger part of the product of my vessel has been codfish.

Q. Could you say what proportion the result of the cod fishing bears to that of the mackerel?—A. In '75 I see the product of the mackerel fishery was about \$14,000, shore and bay, and the product of the cod fishery \$65,000. Some years it might vary. In 1865, during the prevalence of high prices, we pursued the mackerel more than at other times.

Q. Do you think your experience would be pretty much the same as that of other Gloucester men employed in the same business?—A. I have done about an average business. My vessels have been employed in the various lines of business the same as others generally.

Q. As far as Gloucester is concerned the mackerel fishery is really not a source to which they look for profit?—A. That is so.

Q. And it is a fishery they are obliged to keep up rather to keep their vessels employed and to preserve the crews than for any value attached to it?—A. It is. If I may explain. We have had an excellent fishery on our shores, and within the last two years we have used facilities such as seines. We have altogether nearly 100 seines, and they supply our markets with better fish than the bay fishery. I don't know hardly an instance when they haven't been sweeter and taken better in the market than the bay fish. With these facilities for catching mackerel with the seine, our market is supplied, so there is no great catch with the hook. We can't use seines to catch mackerel in the bay with any success, and using the hook and line in the bay, as against the seine on our shores, is a very unprofitable business.

Q. You find it more profitable to prosecute the fishery on our own shores, partly because the expenses are smaller, and the fish better, and comparatively speaking you cannot contend with hand-lines, as against the use of seines on our coast?—A. Yes.

Q. Do you know anybody in Gloucester to any extent employed in bay-fishing, and entirely trusting to bay-fishing for results?—A. No; there is not any there, and never was.

Q. With regard to fishing in the bay, do you give any specific instructions to your captains as to where they shall fish, or do you leave them to their own judgment?—A. If we have free fishing, we leave them entirely to their own judgment.

Q. Have you a fair opportunity of forming an opinion as to where they fish?—A. I have.

Q. Well, would your impression be that of the 19 years' fishing you

have recorded there had been much fish taken within three miles of the shore?—A. My impression is that a very small part has been so taken.

Q. Could you form an approximate idea of the proportion taken within in the bay-fishing?—A. You mean within three miles?

Q. Yes?—A. From the best of my judgment, the knowledge I have where my vessels have been, and conversation with the masters of the vessels, I believe that not one-eighth of the mackerel have been caught within, I should say less, and I should not say any more. It is nearer a tenth than an eighth.

Q. Well, you have referred just now to the time when the fishing was free. Did you take out a license while it was not free?—A. I took out a license while they were merely nominal, fifty cents a ton, and when it was one dollar a ton. I didn't take any when they were two dollars.

Q. What was your object in taking a license?—A. My object was to feel secure in my property, not that we desired perhaps to go within three miles, but there was a doubt about where the lines were drawn. There was always a doubt, and to secure against an uncertainty, and to secure ourselves so that we would not be taken if we were five or six miles out, I should rather pay the money than have the anxiety.

Q. Have you any personal knowledge of the fishing grounds yourself?—A. I have been over them but not fishing.

Q. From what you have learned from the captains, have you formed any idea that there is any peculiar inducement to fish at Prince Edward Island, and that the Magdalens are unsafe?—A. I have always considered the Magdalens the safest place.

Q. Do you know where the bulk is caught?—A. At the Magdalens, or between the Magdalens and Cheticamp.

Q. Now, with your idea of the mackerel fishing, do you suppose that if the American fishermen were required to pay for the privilege of fishing in British waters they could fish with anything like profit to themselves?—A. They could not.

Q. That is, that any additional expense, added to what they have to bear now, would be simply to destroy the business?—A. It would prevent their going.

Q. You have been engaged also in the cod-fishing?—A. Yes.

Q. How many vessels have you employed, as a general rule?—A. I have nine now exclusively cod-fishing this year. All those vessels are employed cod-fishing.

Q. Just explain. Start with one of your vessels, describe when she sets out and when she comes home, and where she is in the mean time.—A. Most of our vessels are vessels that are used on the George's. Our vessels start the middle of January or the first of February for the George's. It is boisterous weather and a rough place; but the men become hardened, and willing to venture; they are all on shares, and go for high lines; they pursue this fishing on the George's until the first of July. We have had all through this season 120 vessels; that has increased some latterly. Continuing on the Georges through the year is increasing. Eight years ago there was half as many vessels in the summer on the George's as now, and more in the mackerel business. The vessels that intend to go mackereling fit out in July, generally the 1st of July, and those vessels are vessels that have been on the Georges during the spring. We have one class of vessels that have been built a little larger, and they are adapted to the Grand Bank fishery. They are not used for mackereling at all. They continue the Grand Bank fishery during the season.

Q. What do you do with them afterwards?—A. They go home about

the 1st December. It is a continuous business, and we keep the men steadily employed. There are, perhaps, 50 vessels that start early in the spring to fish on our own shores, seining mackerel. They don't pursue cod-fishing at all.

Q. Now, with regard to your codfish; how many vessels have you on the Banks now, and how many generally?—A. Well, perhaps I can't answer that distinctly, as most of my vessels have fished for codfish a large part of this season. One left her cod-fishing to go into the bay, and there is one that has been mackereling all the year.

Q. I only want a general idea how you provide your vessel with bait, whether you take it with you or send into Newfoundland?—A. The Grand Bank vessels? Within a year or two our men have got into the habit of going in and buying fresh bait, because it has not been on the Bank within two or three years. If half of them have fresh bait, the other half can do better if they have it. Formerly they used to use salt bait with what squid they could catch on the Bank. They were caught there for a succession of years. Within two or three years they seem to have abandoned the fishing-grounds and gone inshore. Vessels that left home previous to three years ago did not make land until they returned.

Q. As far as the experience of your vessels has gone, do you consider it wiser to fish with salt bait and keep on fishing, or to go in for fresh bait?—A. So far as the quantity of the fish is concerned, I don't think there was much difference if we used the salt bait. We could procure our fares. But our men are acquainted with one another; they can catch more fish with fresh bait while on the grounds alongside of vessels fishing with the salt bait than a vessel fishing with the salt. But while a vessel is going in for fresh bait the vessel with the salt bait is still continuing to catch fish, and so it is equal.

Q. With regard to results, it is more remunerative than mackerel?—A. Yes.

Q. Is it so as a fishery or as the cod is handled after it is caught?—A. It is not in the business of catching fish. After the fish are disposed of in their green state as they arrive in port, from the time they arrive until they go to the consumer, the handling of them gives us our business.

Q. Then even the profits of cod-fishing are rather mercantile than from the fishing itself?—A. It is the profits derived from handling them, curing, drying them, and finding a market for them, and sometimes we get a chance of a rise, buying low.

Q. What has been the average that your cod-fishing vessels have done? Can you take any one of them and show what it has done for a series of years?—A. I cannot show what any vessel has done in the cod-fishing business exclusively for any year. I can say taking her whole work.

Q. Take any one of your vessels and explain what her work has been.—A. I have figures taken from my books to show the cost and annual expenses as well as the receipts of a vessel in the cod and mackerel fisheries.

Q. Explain that to the Commission.—A. The Joseph O. was built in 1868, and the cost of the hull was \$6,175. The cost of rigging, sail, anchors, cables, &c., all beyond the hull, and fitting her for sea, and the expense of the first year, running expenses, was \$6,957, making a total of \$13,132. Her earnings were \$4,600, leaving the vessel to stand on the books \$8,529, after one season's business.

Q. How many seasons have you carried her in that way?—A. Nine, down to January 1, 1877.

Q. At the end of nine years how did the vessel stand?—A. She stands at \$429,140, nine years of age, without depreciation, interest on money, and taxes. She stands that much debtor, and represents so much capital as she is worth. The value in her policy of insurance is \$4,100. This vessel has always run to the Georges, and has been in the bay in the summer. I have another vessel here that was built in the year before 1867. It cost \$6,540 for the hull. The figures are carried here just in the same way, deducting the earnings each year and adding the running expenses. The balance, deducting the cost of running her, makes her stand last January at \$13,462, without interest or taxes.

Q. What would the interest be?—A. I have not figured it. I suppose it would be six per cent.

By Mr. Davies :

Q. How many years does the statement run over?—A. Ten years.

By Sir Alexander Galt :

Q. Do we understand that there is no interest on the investment included in this account?—A. There is no interest in the account.

By Hon. Mr. Kellogg :

Q. The first account is in the mackerel business alone, an individual vessel, and this one is in the combined business?—A. They are part of the season for codfish and part for mackerel.

By Sir Alexander Galt :

Q. Have they both been employed in the same business?—A. The one on the left (referring to account) has been employed more largely in latter years on the Grand Bank with trawls, which made her more expensive. Those three vessels were built after the war, when the cost of vessels, of the raw material used, and running them for a few years, was higher than previous to the war. As far as my business is concerned, I owned six, seven, or eight vessels when the war broke out, which were low-priced vessels, and cost less previous to the war, and I ran those vessels through those years, in which we were successful, and they offset some of the doings of the high-priced vessels. So if we had had nothing but those three vessels, I don't know where I would have been—probably not here to testify. Those vessels will stand as well as the average of vessels about that time, and have done as well.

By Mr. Foster :

Q. What is the fair rate of interest on absolutely good security and the average taxes at Gloucester?—A. The rate of interest has been about 7 per cent. bankable from 1862 to this year. It was 7 $\frac{1}{2}$ most of the time; it would average about 7. Now it is 6 per cent.

Q. If you were making up an account to see how you stood, at what rate would you charge interest?—A. I would make it up at 7 per cent.

Q. Now as the taxes?—A. The taxes have been about 2 per cent. They are \$1.80 this year.

Q. How is the property valued?—A. At a little over three-fourths of its value.

Q. Three-fourths of the auction value?—A. Three-fourths of what we consider the value.

Q. Take any of the years, and state at about what amount those particular vessels would be taxed?—A. They would average from the time they were new till the present time \$6,000 tax valuation. The first tax valuation of the Hattie S. Clark was \$8,500.

By Mr. Trescot :

Q. From your knowledge of the business of Gloucester, do you consider that your business, on an average, has done as well as other businesses of the sort ?—A. I think so.

Q. You think it has done a little better, don't you ?—A. I have not failed yet, and a good many have.

Q. What percentage of profit on your investment, including all expenses, do you think you have made ? On the money invested, what percentage or profit have the people of Gloucester made ?—A. We don't make any profit. My vessels have not made more than their running expenses for five or six years—hardly any more. Take an average of eight years, my vessels have not paid their expenses.

Q. How is it to be explained that some of the witnesses on the other side have stated here, that Gloucester, which was the great center of the fishing business, and an enormously rich town, had made all its wealth in the fishing business ?—A. We don't live in any such town as you have described.

Q. The town of Gloucester has improved, has it not ?—A. It has increased in population.

Q. What has led to the increase of wealth, if there has been such, in the last fifteen or twenty years ? Is your fishing business the chief support of Gloucester ?—A. It is the largest business we do, but it is not all that is done in Gloucester to increase its valuation. If I understand what you are driving at, it is this: if we have an increase in the valuation on the assessors' books, from what cause has that increase come ?

Q. Yes ?—A. I have not looked at the valuation books, but I think we have an increased valuation, although I have no figures with me. If I recollect aright, the valuation is about \$9,000,000, with 17,000 inhabitants; I remember when the valuation on the books was \$4,000,000. That was in the fifties. I think the increased valuation has arisen from the increased assessed value of the same property we had in the fifties—a large portion of it from the increased value of the same property. We have also an increased valuation from the products of our granite business; we employ 1,000 men in the granite quarries. They have been developed. 1,000 men, with all the officers of the company, require places to live in; that makes property and adds to the valuation. The development of the quarries, with all the machinery employed, has added very largely to the valuation of Gloucester. We have had quite a large number of quarries developed within the last ten years, which have increased the assessed value. Gloucester has become a large summer resort, and has a great many summer visitors; they have to have houses, and that has increased the valuation very largely. About ten good sized public houses have been built within the last five or six years, and filled with summer boarders. A very large number of families from Cambridge, Lowell, Boston, and other places have come down there and spent \$3,000 to \$5,000 on a house for the summer in the outskirts of Gloucester. That has also added to the valuation. We have also improved our ship-railways; we have now six railways in use in Gloucester, and we draw in business from Newburyport, Portland, and other ports; and vessels come here for repairs, which makes work for mechanics. We have the best mechanics, best sail-makers, calkers, and ship-carpenters which can be found. We are drawing business to Gloucester, while other places have decreased. We have nearly held our own in the fishing business, and we have grown in the business we have obtained from other sources.

Q. So Gloucester does not, as has been said by the other side, repre-

sent the accumulated wealth obtained from the cod and mackerel fishing during the last 15 or 20 years?—A. I have not any answer to make to that. I don't know what the other side have said.

Q. Has Gloucester grown more than towns in other countries?—A. No. Haverhill, Lawrence, and Lowell have largely increased their valuations.

Q. To go back to the mackerel fishery. Judging from your list of catches, mackerel is a very variable fishery?—A. Yes.

Q. In calculating the profits on the mackerel fishery, is there any period within which to expect a rise and fall in the success of the business?—A. From my experience, there are years when we have reason to expect a better catch than other years, from the quality of the mackerel and the body of it we find the year before.

Q. What is that period?—A. They are periodical. The large body of mackerel are of quite an even size, and they grow perhaps one inch a year until they reach twelve inches, when they grow not more than one-half or three-quarters of an inch a year; on reaching thirteen inches, they don't grow more than half an inch a year afterward. We find the same body of mackerel increased in size as the years roll on, until they get to be a good size. As they increase in size they decrease in quantity. Then we may expect a new growth, which fish come along not annually but in periods of five or six years, when we find a body of mackerel of small fish of even size: and when they get large enough to catch, as we can follow them along in the years we can expect to catch a certain kind for years. I have been through three such periods, and the mackerel have come along about as regularly as we calculated. Sometimes there has been a deviation from the rule, but generally it has been as I have stated.

Q. How about the mackerel market?—A. The mackerel market does not increase, that is, the demand for mackerel does not increase. The price of mackerel from our experience will rule low. They are low now, compared with the quantity. The country does not seem to call for mackerel. There is a good call for cod, and a large consumption, but the demand for mackerel is limited, and there is less call for it than usual.

Q. During the years from which you struck an average of about \$11, you included the years of the war?—A. I did.

Q. Was there not an extraordinary demand during the years of the war?—A. There was a very great demand and the prices were very high, owing to our inflated currency and the demand for the Army, which took a considerable quantity. Those are the years we were successful, and the mackerel in the bay were the right size to bite.

Q. Has not the Southern market for mackerel fallen off?—A. Yes, very greatly.

Q. And there is no prospect of an increased trade?—A. I don't know any.

Q. You have no reason to anticipate any increase?—A. They don't seem to like mackerel as they used to. We cannot sell one-half what we could twenty-five years ago; we cannot find a ready market. I cannot tell the reason for this fact, except that the people, by the improved mode of transportation, are supplied with fresh fish, which they prefer to salt fish, and I don't blame them for it.

Q. Have you had any opportunity of judging whether the value of fishing-vessels sailing from Gloucester has increased in recent years?—A. The cost of building and fitting out vessels has fallen off somewhat since 1867 and 1868.

Q. Are the vessels generally insured?—A. Our vessels are insured in a mutual office. We all insure our vessels, 300 or 400, in one office.

Q. You are a director in that company?—A. I am not a director this year. I have been connected with the company twenty-five or thirty years. The company has been thirty years in existence.

Q. Have you been president?—A. I have been president, or secretary and treasurer, during three-quarters of the existence of the company, which is thirty years. I am not now an active officer, but only a stockholder.

Q. Has there been any falling off in the amount of insurance of late years?—A. The highest stock that was taken to cover the vessels during our inflated prices of the war time was \$2,200,000.

Q. What is it now?—A. \$1,600,000, covering our vessels with their outfits.

By Sir Alexander Galt:

Q. Is the tonnage about the same?—A. It is a little higher. The number of vessels is a little less, but the tonnage is a little higher than it was. Our vessels are now built a little larger for the Bank fishing. That is my impression. I have not the figures with me. There has been no real increase in the aggregate value of the vessels, but a decrease. The vessels, as they advance in years, decrease in value, and new vessels are put in at their fair value.

By Mr. Trescot:

Q. Are you familiar with mackerel fishing on the United States coast as well as in the bay?—A. Yes.

Q. How do you think the two compare?—A. The fisheries on our shores are far preferable and more profitable than the fisheries in the British waters, on an average.

Q. Have you made any approximate calculation of the highest number of mackerel-vessels in the bay during any year?—A. I think I never knew over 200; that is the highest number I remember in my experience, and I had occasion to know as much as anybody about it, because we had to keep the run of the vessels in the bay on account of the extra insurance we charged them in the latter part of the season.

Q. Explain the extra charge.—A. We have a percentage which we charge vessels in ordinary business commencing at certain seasons of the year, and if a vessel is in the bay on the 1st October, and exposed, as we consider, to additional risk, we charge one-half per cent. extra, which is added to the premium note, and if she remains to 1st November another half per cent. is added, making one per cent. extra premium. That is to cover the hazardous risk that is incurred by her being in those waters at that season.

By Sir Alexander Galt:

Q. How is it when vessels are on George's Banks?—A. That comes at an early part of the season, and our premium covers that. We commence the premiums at 9 per cent. for the year. We graduate according as the season advances. We reduce the premium one-half per cent. per half month; in January it is 8 per cent.; middle of January, $7\frac{1}{2}$ per cent.; at the commencement of February, 7; later in February, $7\frac{1}{2}$; and 6 on 1st of March. Those vessels go in at that rate of premium on George's or Grand Banks at that season of the year.

Q. How about Bay St. Lawrence?—A. The vessels do not go in there till 1st July, and they go in at the same premium.

By Mr. Trescot :

Q. Can you form any idea of the largest number of your vessels which were in Bay St. Lawrence on 1st October any year?—A. The highest number which paid the one-half per cent. extra was 175. It belonged to me to look that up. That is the highest number I remember.

By Mr. Foster :

Q. When was that?—A. I should say it was more than ten years ago.

By Hon. Mr. Kellogg :

Q. Do you mean to include all American vessels?—A. No; only those from Gloucester.

By Sir Alexander Galt :

Q. Those were vessels insured in your office?—A. Yes; and we cover all Gloucester vessels in that one office.

By Mr. Trescot :

Q. Could you say what is the largest fortune made in the fishing business in Gloucester?—A. I don't know of anybody that ever retired from the fishing business with more than \$25,000. I know one man who has retired, and his fortune is estimated at from \$25,000 to \$30,000. He is the only man who has retired. They go out in poverty not in riches. I remember settling up the estate of a man who had been successful, who was a hard worker, a fisherman himself, and who continued in business till he was sixty-five years old. It was ten years ago, at the time of high prices, and he had bought his vessels in the fifties at low prices, and the whole estate realized \$48,000. I don't know any other estate obtained in the fishing business which has realized so much, and this estate would not have done so if he had lived five years longer. The vessels were sold at 50 per cent. more than their cost, and the wharf property at three times its value five years before.

By Mr. Dana :

Q. What did the wharf property net?—A. \$15,000, and it was sold two or three years ago for \$9,000.

By Mr. Foster :

Q. How much was real estate in Gloucester worth in 1877 as compared with 1870, 1867, or 1866?—A. I should say 33 per cent. less.

By Sir Alexander Galt :

Q. That is not exceptional as regards Gloucester?—A. Not at all.

By Mr. Foster :

Q. How do you distribute the fish over the country?—A. We have become ourselves distributors. Gloucester merchants have become middlemen. Formerly Boston used to take our fish in bulk and pack them and send them over the country. Now the orders are sent direct to Gloucester, and we cure and pack the fish in boxes and send it out. We use 100,000 four quintal boxes a year, and scores of thousands of smaller boxes adapted for the business.

Q. Where are the boxes made?—A. Most of them in the State of Maine. They are sawed out in Maine, and nailed together in Gloucester.

By Mr. Trescot :

Q. Does that add to the price of the mackerel?—A. Most of those men are not interested in producing, but some are producers, and put

themselves in as middlemen. Some are not producers at all, but do this business, and employ their own men, and buy on commission.

Q. After the mackerel are landed, there is a class of men who prepare the mackerel for market which adds to the expense of the mackerel?—A. Yes.

Q. Can you give the product of the Gloucester fisheries for any year?—

A. I have a printed statement here with me, which I believe to be as nearly correct as can be obtained. This printed return, which was made last January, shows the product last year; I cannot vouch for its accuracy, but to the best of my knowledge I believe it to be about correct.

Q. Read it.—A. It is as follows :

The estimated products of the fisheries of the District of Gloucester for the year 1876 were as follows: 425,000 quintals codfish, \$2,295,000; 101,032 barrels mackerel, \$903,000; 30,000 barrels herring, \$127,500; 40,000 quintals other dry fish than cod, \$120,000; shell-fish, \$10,000; 11,000,000 pounds fresh fish, \$745,000; 275,000 gallons fish oil, \$132,000; 2,750,000 pounds smoked halibut, \$275,000; 8,000 tons fish manure, \$25,000; miscellaneous, \$10,000; total value, \$4,648,500.

Q. You were one of the committee which carried this petition to Congress against the Washington Treaty?—A. I was there at the time on the committee.

Q. I will read you an extract from the petition which contains an estimate of the value of the fish product in 1870. It is as follows:

That this picture is not overdrawn, let the following figures testify: Since the abrogation of the Reciprocity Treaty, and the repeal of the bounty laws, and the establishment of a duty of \$2 per barrel on mackerel and 50 cents per one hundred pounds on dried fish imported into the United States, the business of fishing, thus protected even, has been by no means so remunerative as to encourage a large increase of the fishing fleets in the hands of those engaged in catching fish alone.

The product of the fisheries in 1870 was..... \$14,000,000

To secure this product the cost of provisions and salt, and the expenses of 1,800 vessels averaging 50 tons each (90,000 tons), at \$3,000 for each vessel were.....	5,580,000
Cost of 500,000 barrels.....	500,000
Labor on shore, packing and curing fish.....	750,000
Earnings of 20,000 fishermen at \$330 each, for the season.....	6,600,000
Interest on capital invested, \$11,000,000.....	660,000
	<hr/> \$14,090,000

Without estimating at all the depreciation in the vessels themselves.

During this year the product cost \$90,000 more than it brought in the market—the \$750,000 spent among packers and curers, the large sums also spent of the above amount in outfitting, constituting all the benefit derived by those who were engaged in supplying fish to those who endeavor to control the markets.

Q. You believe that statement is correct?—A. I helped to make it up.

Q. You don't consider the fish in the water of any value at all?—A. No.

Q. The value of the fish is what you expend on it?—A. All the labor expended on it.

Q. You would not put any commercial value on either codfish or mackerel in the water?—A. No; there is none.

Q. You say you are also engaged in halibut fishing?—A. Yes.

Q. There is a very large amount of halibut fishing carried on from Gloucester?—A. Considerable; we supply the market as far as we can.

Q. Do you know of any halibut fishing on the United States coast, except from Gloucester, of any consequence?—A. No; a small amount is done by the town of New London, which runs a few vessels.

Q. You have had vessels engaged in that fishery?—A. Yes; but I have not any this year.

Q. You know where the vessels go to fish?—A. Yes.

Q. Is not the halibut fishery entirely a deep-sea fishery.—A. Yes.

Q. Would you not be surprised to hear of any inshore halibut fishing of any consequence?—A. I had one vessel make two trips to the north shore of the St. Lawrence, up at Seven Islands. They were successful in getting one or two trips; but they tried four other times to get trips and were unsuccessful.

Q. From your experience and knowledge, what likelihood would there be in the truth of a story of a large number of vessels going into Cape Sable Island to catch mackerel, and getting heavy catches?—A. I never heard of any vessels fishing in there; it is very improbable, indeed.

Q. You are also engaged in the herring fishery?—A. Somewhat; my business in herring is limited.

Q. What do you do in the way of the herring business?—A. I know about the business. I have had some experience in it, and have had vessels engaged in it.

Q. What is the herring fishing? Is it a fishing business or a mercantile business, as far as Gloucester is concerned?—A. Our vessels go to the places where the herring are fished in the winter time, and buy them from the shore-men, freeze them, carry them to market, and sell them as an article of food, principally. We use some in our business for bait in the winter time; but we sell them principally as an article of food.

Q. Then it is entirely a mercantile transaction?—A. We don't fish for any. We buy them from the people on the shore, who catch them.

Q. With your experience of the fisheries, and the interest you have in them, what is your opinion in regard to returning to the old system of charging \$2 per barrel duty on British fish, or giving up the duty for the privilege of fishing inshore. Which would you prefer, and what do you think about it?—A. I don't know that I should advocate such a going back as that in these times. I believe in going ahead. The time has passed to go back to such a state of affairs.

Q. Would you, as a business man, prefer to have the privilege of fishing within the three-mile limit, or would you prefer to have the duty of \$2 per barrel imposed on fish coming into competition with your fish, and be excluded from the three-mile limit?—A. I would answer that in this way: in connection with any business personally, I would very much prefer the \$2 per barrel duty. But I looked at it in a broader sense, when I answered it as I did at first. I would not advocate the idea, because my own personal interest is very small, compared with the needs of both countries. It is a step I would not be in favor of endeavoring to carry into effect. Personally, it would be decidedly for my benefit.

Q. To a certain extent it would be a pecuniary benefit to you; but you think it would be illiberal either to charge a duty of \$2 per barrel on British fish, or to exclude our fishermen from the three-mile limit?—A. I do. I was very decidedly against taking off the duty at that time, but it has passed.

By Mr. Foster:

Q. Who pays the duty?—A. It comes from the producer of the fish.

Q. Why?—A. I don't think the small quantity of fish which comes in from the provinces, compared with our quantity, affects the price of fish to our consumers. If they have to pay a duty, they will have to have it deducted when the receipts for the fish are sent back. A duty does not affect the price to the consumer. It would have a tendency to prevent people continuing the business here, which might in time make a shorter catch, and give us the advantage. If there should be \$2 per barrel duty imposed, I have my idea of what would become of the business.

By Mr. Dana :

Q. The fishing business at Gloucester has been built up within the last 25 or 30 years ?—A. I think it has. The different departments have been drawn in.

Q. Has it not been built up at the expense of other towns ? Take Marblehead ; it used to be a famous fishing place.—A. Yes. Marblehead four or five years ago had forty vessels ; this year it has eight. Beverly has decreased to 22 ; formerly it had a great number. Manchester sends out none now ; I remember when it sent out eighteen vessels.

Q. So that whatever increase there has been at Gloucester, you can trace it as having been drawn from other fishing towns ; in other words, the trade has been centralized ?—A. Yes. Our products are also brought in by eastern vessels from along the shore of Maine, which come in and sell their cargoes. That quantity goes into our product. It makes business for us.

By Mr. Davies :

Q. You are under the impression that the producer would pay the duty ?—A. That is my impression, that the consumer would hardly know the difference in price.

Q. That is based on the promise that a very small quantity of fish comes in from the provinces ?—A. Not altogether on that.

Q. If it is not upon that data, upon what data do you form that conclusion ?—A. That the price of fish is not governed by the men who produce it or put it in the market for sale. We have to take what we can get. We cannot make the price of fish ; there is no union about it, and whether there is a duty paid or not, the price of fish to the consumers or middle men is not regulated by how much it cost to produce it or how much duty is paid on it.

Q. Is not the market for fish regulated by the ordinary laws of supply and demand ?—A. Not altogether.

Q. How do you account for the extraordinary variation in price, which appears to depend very much on the quantity produced ?—A. It depends somewhat on that, but the market for mackerel has not done so. This year we had a very small catch of mackerel, but the price has been low, very low compared with the catch. It is higher than it would have been if we had caught three times as many.

Q. Showing that the quantity produced has regulated the price ?—A. Not altogether.

Q. To a large extent. I will take the illustration you have given. There has been a very poor catch this year on your coast ?—A. Yes, rather light.

Q. I was told by a very large fish dealer that he had a quantity of mackerel, No. 1, in Boston, and he expected to get \$28 per barrel for it. Is that near the market price ?—A. I have not heard of any such price being mentioned.

Q. What is the price of No. 1 mess mackerel ?—A. Caught where ?

Q. I don't care where. Is there any difference ?—A. I have not heard of any price being paid this year over \$22 per barrel. That was for the best mess mackerel, and of those few are wanted.

Q. Is \$22 a high price ?—A. Yes.

Q. Is that not caused by the lightness of the catch on your coast ?—A. No. There is a certain call for a particular class of mackerel, and if you can supply that mackerel you can obtain a certain price. When you increase the quantity of that class, the price will fall. There is a

certain trade which wants nice mackerel and will pay a good price for it.

Q. Is that the average price of No. 1 mess mackerel?—A. No; it is a little high.

Q. How much too high?—A. They are usually \$18, \$19, or \$20, when there is a good catch. I think \$22 is a little higher than the average price over a series of years. From \$18 to \$20 would be the average price of No. 1 mess mackerel.

Q. What did mess mackerel bring last year?—A. I sold mess mackerel at about \$17; there was a very short catch, indeed.

Q. And the price this year is \$5 higher than last year?—A. Yes.

Q. Don't you think that is accreditable, to a very large extent, to the lightness of the catch this year on your coast?—A. Perhaps it might a very few dollars on the barrel.

Q. And if there was a duty imposed, and no extraordinary catch, do you not think the consumer would pay the duty?—A. No; because I don't think you could depend on a small catch if you had a duty imposed. You might have a large catch and a duty.

Q. I am taking this year. Suppose there was a duty on mackerel this year, who would pay it on the mackerel?—A. The man who caught them would pay the duty.

Q. Although he got \$5 more per barrel than last year?—A. Not on account of the duty.

Q. On account of the lightness of the catch?—A. That would not affect the duty at all.

Q. If he had to pay a duty of \$2 per barrel, he would get \$5 per barrel more than last year?—A. Does he get any more if it is free or less than if there was a duty on this year? Customers do not think anything about duty when they purchase mackerel. The duty has nothing to do with regulating the price; the quantity caught has something to with it.

Q. And therefore the quantity imported would have something to do with the price?—A. It has some effect on it.

Q. Suppose one-half the mackerel consumed in the United States was imported, what would be the effect?—A. It would affect the price; it would make our prices low.

Q. Must not one-fourth of any product being imported materially affect the price?—A. It does, somewhat.

Q. Does it not materially?—A. It is according to the kind that is produced. Certain kinds of mackerel will sell better than other kinds.

Q. A return shows that the mackerel imported into the United States from 1871 to 1876 ranged at about 90,000 barrels. That is about one-fourth of your annual consumption?—A. There are about 250,000 barrels annually inspected in Massachusetts, and 50,000 in Maine; it is therefore less than one-fourth.

Q. It is between one-third and one-fourth. Don't you think the importation of that quantity must necessarily affect the market?—A. Yes; that is what we are afraid of.

Q. And when you spoke about being against going back to the old state of things you spoke as a citizen of the United States, not as a person engaged in the fishing business simply?—A. Yes.

Q. Speaking as a fisherman, would you prefer to have the duty on?—A. Personally, I would rather have the duty on.

Q. Why?—A. Because the duty is better for us, for it would have a tendency in years of good catches to prevent your people from increasing their business. It has that tendency.

Q. Has it any tendency to better you as well as to injure your neighbors?—A. That is what we were looking for—for better prices.

Q. Has it a tendency to increase prices to your fishermen?—A. It would.

Q. So, if it increases the price of the fish it strikes me the consumer must pay the increased price.—A. I am not clear that the duty has anything to do with it; it is the catch.

Q. You are a large fish-merchant; you have not gone and prosecuted the fishery as a fisherman yourself?—A. No.

Q. And therefore you cannot speak from any personal experience as to where the fish are taken?—A. No.

Q. When you spoke, therefore, of the halibut-fishing, you spoke only from information gathered in your business, not from being actually present and seeing the locality where they were taken?—A. My means of knowing was by inquiring of the men where they fished.

Q. Therefore you would not be prepared to contradict those who actually stated that the fish were taken in certain localities?—A. Certainly not.

Q. We have had some evidence of halibut-fishing on the southeastern point of Nova Scotia, and in a bay called Lobster Bay and around Cape Sable Island; would you be prepared to deny that halibut are taken there?—A. Certainly not.

Q. When you made answer to Mr. Trescot that fish had no commercial value, what are we to gather as the full meaning of that answer?—A. That the men, in catching, curing, and preparing fish for market, do not get any more for their time than common, ordinary labor in any other department.

Q. Do I understand that the capital invested in fishing does not produce a greater return than capital invested in any other branch of industry, or does not produce as much?—A. It does not produce as much. The cost of procuring and preparing the fish is equal to the proceeds. I mean as regards the fish producer; I do not mean as regards the merchants.

Q. You confine that answer to those who invest their capital in producing fish as a food product?—A. Yes; to those who bring it in in a green state.

Q. And the people who are engaged in that fishing make a fair living out of it?—A. Well, they make about \$30 a month for ten months in the year.

Q. Some of the most prudent, competent, and successful fishermen laying up something?—A. Yes; we have some among us who have done so. One man perhaps in a hundred has by his tact, luck, and energy succeeded better. They commence in this way. A man of that kind we will pick out as a master, and he will get his share, and a commission which will amount to as much as his share. We pay 4 per cent. to the master, which makes him a double sharesman. He can save something, and he goes up the ladder.

Q. But the mass of men engaged in fishing make a fair living?—A. They make \$300 a year.

Q. Would that be a fair average?—A. My opinion is that it would be a very fair average.

Q. Do you supply their food?—A. While on board the vessels. They board themselves when on shore.

Q. Is the sum of \$300 their net proceeds?—A. Yes, for a year's work; several voyages together.

Q. There are incidental profits in all large business?—A. Yes.

Q. And those you had not taken into consideration when you made your answer in regard to fish in the water having no commercial value. The mackerel and middle men make money out of them?—A. I did not include them.

Q. The men who actually go in the vessel do not make money out of them?—A. No; money is made by middlemen.

Q. How is it that shrewd, enterprising, practical men like the Gloucester people, continue to keep their capital in that business, if they lose money?—A. We would be very glad to have some better business pointed out.

Q. Do you know of no better business?—A. Yes.

Q. Why do you not go into it?—A. Gloucester Harbor is one of the best on the coast; we possess all the facilities for carrying on this business of producing an article of food, which other places do not; we have learned the business and we propose to keep in it, whether we make or lose. If we cannot pay our debts we will assign and commence again.

Q. But is there not an aggregation of wealth in Gloucester? Has there not been an increase in wealth?—A. Very small, indeed, among those in the fishing business. Some rich men may move in and pay taxes.

Q. You have said that you knew very few men who had retired from the business; perhaps they do not retire but keep their money in it.—A. It is difficult for a man to retire and to sell out.

Q. You are not a member of the firm of Procter Brothers?—A. They are publishers. They are relations of mine.

Q. They have published a pamphlet on the Gloucester fisheries?—A. Yes.

Q. Have you read it?—A. I think I have.

Q. Are the men engaged in the fishing business?—A. No.

Q. They live in Gloucester?—A. Yes.

Q. And are in business in Gloucester?—A. Yes, as publishers and keepers of a variety store. They were born there, and always lived there. They make themselves acquainted by conference with those in the fishery business.

Q. Have they conversed with you about it from time to time?—A. For any point they wished particularly to know about.

Q. Is it an annual work they publish?—A. They don't publish an annual work. That book was got up for the Centennial, and to advertise Gloucester.

Q. You have given the value of the fish product in 1876 as \$4,648,500?—A. That amount I did not give as mine.

Q. You indorsed it generally?—A. I thought it was nearly correct. I thought the figures rather high.

Q. They give for 1875 \$3,901,500. I will read what is stated in this pamphlet as the cause of the development at Gloucester:

Subject to perils like these and hardships greater than we can describe or imagination conceive, the fisherman plies his busy trade. Through his labors mainly, Gloucester has grown from a population of 6,350 and a valuation of one million dollars in 1840 to a present population of 16,754 and a valuation exceeding nine millions, showing, in the brief period of thirty-five years, an increase of 264 per cent. in population, 853 per cent. in valuation, 358½ per cent. in dwellings, 442 per cent. in wharves, and 213 per cent. in vessels. Through his skilled operations and the advantages taken of his labors, the fishing business of Gloucester has grown from an enterprise of secondary importance to rank among the valuable producing interests of the country. Less than thirty years ago, in 1847, the total value of the fishery products of Gloucester amounted to \$589,354. Last year (1875) the production of the Gloucester fleet was as follows: (The figures are here given.) The total is \$3,909,500.

Q. As far as regards the totals given there they are approximately correct?—A. Yes; the whole thing was got up as an advertisement.

Q. An advertisement of Gloucester and its trade?—A. Yes; for the Centennial, to advertise our business to the world.

Q. When you stated that the value of property at Gloucester had decreased 33 per cent. during recent years, did you wish it to be inferred that that was a special feature in Gloucester alone, or is it not owing to the commercial depression which has extended all over the country?—A. It is not limited to Gloucester. Shoe-manufacturing towns have felt it.

Q. Nor is it confined to the fishing business alone?—A. Not at all.

Q. Is there any other trade which Gloucester has as a specialty besides the fishing business?—A. It is the largest business we do.

Q. Would I not be correct in saying that nine-tenths of the employed capital at Gloucester is engaged directly or indirectly in the fisheries?

—A. Seventy-five per cent. of the employed capital is engaged directly or indirectly. Our clothing houses, sail-makers, and other businesses are connected with it indirectly.

Q. Is the pamphlet correct in stating that the valuation in 1840 was about one million and now nine millions, with a population of 16,754?—A. I presume the valuation of nine millions is about right.

Q. Is not the statement that in 1840 the valuation was one million, correct?—A. I presume so; I know nothing to the contrary.

Q. If 75 per cent. of the employed capital of Gloucester is engaged in the fishing business, does not that prove that it must be owing to the fishing business, almost altogether, that Gloucester has made these strides?—A. The increase in Gloucester is not all increase in business; it has increased in population. People have moved in and brought money in and are using it there. The increase in the valuation has not been in the fishing business altogether; it has mainly, I admit; but men have moved in who are assessed for larger amounts and pay large taxes and who prefer to come there on account of the high taxes of Boston, and spend part of the season there. They have increased the valuation.

Q. You say that it has mainly increased from that cause, but that there are other causes which contribute to it?—A. Yes; I have been confining myself to the last ten years.

Q. Is not the great underlying cause of the increase in the returns from the fisheries?—A. No.

Q. Tell me what is the great underlying cause?—A. There has been a great increase in the valuation of Gloucester by reason of its becoming noted as a summer resort. That has been the cause of the greatest increase. There has been no increase in the fishery business of any note. They have increased the value of property there by putting a higher valuation on it; the same property as we had before.

Q. You assented to the statement that the fishing business was the main cause, but not that it is the great underlying cause?—A. I mean within ten years.

Q. You confine your last statement to ten years. During the last ten years Gloucester has become noted as a watering-place?—A. It has increased in population within ten years. I am speaking more particularly of the increase in the valuation on the assessors' books. That increase has not been due to an increase in the fishing business. The valuation in 1856 or 1858 was about four millions. I did more mackerel business in 1848 than I have done this year. I had twelve vessels in the bay that year.

Q. Will you say that the most of those engaged in fishing did more business in 1848 than now?—A. They did not.

Q. Where has the money come from which has built the large buildings and public works and railways?—A. From living economically and saving something every year.

Q. You have said that Gloucester is drawing in business from its neighbors?—A. The facilities we have at Gloucester for supplying and repairing vessels, and doing other work connected with them, are beyond those possessed by any other place. We import our salt. We imported 90,000 hogsheads last year.

Q. All other businesses are dependent on the fishing business more or less?—A. If it was not for the fishing business we would not want so much salt. We get a profit and return from that which other places used to get. We used to go to Boston for our salt, and not import it, and to other places for what we now produce ourselves. Now we salt our own fish, and are middle-men.

Q. Are not those middlemen growing, not, perhaps rich, but making money?—A. No; I don't think they are making much.

Q. Are they making something?—A. They would if they got all their bills paid, but they have bad debts; that is the trouble.

Q. So that really the incidental business which naturally attaches itself to the fishing business pays?—A. It gives a man a living, that is all.

Q. And enables him to lay by a little?—A. A trifle.

Q. I suppose the firm of which you are a member is worth to-day a good deal of money?—A. I am the only member of the firm.

Q. I would not be wrong in estimating that you are worth from \$75,000 to \$100,000?—A. I have earned more than my living outside of my business, in holding offices and settling estates. If I am worth \$50,000 the fishing business cannot be credited with all of it, although I have had a good fleet of vessels and attended to the business.

Q. You have said your vessels have not paid expenses during the last eight years?—A. I think the results will prove that the vessels have not paid their bills.

Q. You make up a profit and loss account every year?—A. Yes.

Q. Showing the profit and loss on each venture?—A. Yes; on each vessel.

Q. Mr. Davies asked witness to prepare a statement from his books, showing the result of each voyage during the existence of the Reciprocity Treaty.

Q. Your statement covering nineteen years shows that you lost about \$128 each year?—A. I got a certain amount for the use of the vessels.

Q. That is only interest on the capital employed?—A. We don't always charge it when we own the vessel. I made something also by packing.

Q. How did you make money to invest?—A. I had good credit.

Q. Were not the vessels owned by you absolutely?—A. No.

Q. None of them?—A. Not many of them. They were in my name, but their debts were not paid and are not all paid now. I was in good credit.

Q. In regard to the account of the catches of mackerel you gave, the result showed a loss?—A. The result is a loss to the owners of the vessels.

Q. Have you made up a statement showing for those 19 years what the result has been of the voyage of vessels fishing for mackerel on the American coast?—A. I have not.

Q. Can you do it here?—A. No.

Q. You would have to go to Gloucester to do it?—A. Yes; I have

here a statement since 1866 showing the number of vessels and number of barrels taken, but not the dollars and cents.

Q. What does this statement show?—(Statement exhibited.) A. I sell the mackerel to others, and that is an account of the amount received from the sale of the mackerel, of which the crew received their half and I received mine. That is clear of the packing.

Q. Out of the packing and incidental business connected with the sale of the fish, you make a profit?—A. Yes; and out of curing the fish.

Q. And on all the articles supplied?—A. A small percentage.

Q. You limit this statement to the actual cost of taking the fish yourself and what you received for them?—A. Yes.

Q. How was the small sum of \$9,905 realized in the year 1861 for 1,896 barrels?—A. It was owing to the price of mackerel for number ones, twos, and threes.

Q. In 1862, 698 barrels realized \$5,305, and in 1863, 1,424 barrels realized \$15,628—this only shows how much in gross you realized these years?—A. Yes.

Q. Can you give an estimate of the cost of each barrel of mackerel on the average for the catch?—A. In that statement it is perhaps as correct as it can be got.

Q. How do you find out whether each of these trips is profitable or not?—A. All the trips go into the year's work.

Q. Can you from your books for these years give me the actual result showing the profit which you made on each of these voyages?—A. It is impossible for anybody to do that; the books relate to the proceedings of the whole year, and a vessel runs for 10 months.

Q. You have made up an approximate statement and you show a deficit, and I want to get from the actual books what they show?—A. I cannot give you what you desire to have.

Q. Taking the *S. L. Lamb*, the first vessel, she caught so many barrels and realized so much, can you tell me from your books whether you lost or made money during that trip?—A. No; that trip is part of the year's work.

Q. Is not each trip made up by itself, and does it not enable you to pay the men off?—A. Yes, and one-half of the results goes to the credit of the vessel's account.

Q. And all the charges made against the trip would be charged?—A. The direct charges for provisions, &c, would be, but not the general charges against the vessel. The charges for insurance, sails, rigging, and anchors, &c., would all be placed in the general bills.

By Sir Alexander Galt :

Q. How do you get at the expenses connected with the 119 trips?—A. I will explain; you first make up a paper showing the number of trips made in these 19 years, and the number of barrels taken in British waters.

By Mr. Davies :

Q. How do you distinguish between them?—A. These are mackerel brought out from the bay of St. Lawrence via Canso.

Q. You give the number of barrels and the value realized from them; and then you have a column showing the average trip, what do you mean by that?—A. I mean, say 16 trips and so many barrels for the 16 trips, and the average would be 1-16 for each trip. If these 16 trips realized 3,000 barrels, 1-16 of 3,000 would be the average. Each year would have an average for itself.

Q. This gives the average quantity taken each trip, and the average

value?—A. The average price of so many barrels would be for each barrel so much.

Q. How do you get at the average value?—A. By dividing the product by the number of barrels.

Q. And that would leave \$7.80 as the price of mackerel in 1857?—A. The figures are quoted.

Q. Then you make up another column showing the expenses?—A. Yes.

Q. If you take the aggregate values, after you pay the men off, what would be the result; an average trip is 183 barrels, which, at \$11.57, realize \$2,117, less \$180 for bait?—A. That is taken out of the whole stock.

Q. Something else comes out of the whole stock besides bait?—A. I put that down. On a mackerel voyage there is little else save bait; but on cod-fishing voyages there are other items.

Q. The crew's half is \$968—what do you deduct from this amount?—A. That goes to the crew.

Q. And the owner's half?—A. I credit that to the vessel.

Q. The item for insurance is \$125?—A. That is for the time she was employed on that voyage.

Q. How do you make it up?—A. It is $2\frac{1}{2}$ per cent. on \$5,000 for the trip.

Q. Do you insure for \$5,000 on the vessel?—A. We insure the value of the vessel. It costs about $2\frac{1}{2}$ per cent. a trip to the bay on the average for those years; that is made up by computing $2\frac{1}{2}$ per cent. on \$5,000.

Q. Four per cent. on 1,937 comes out of the owner's share?—A. Yes, entirely.

Q. Provisions, oil, and fuel cost \$390. How do you make this up?—A. I arrived at that from figures prepared by myself, and from my own books, proving that it costs 40 cents a day per man for these items to fit out our vessels in our way. I prove that by actual figures taken from our books, and 40 cents a day for 14 men for 10 weeks make \$390.

Q. How do you arrive at the cost of salt, fishing gear, and the vessel's running expenses?—A. I make it up from an estimate furnished by my own experience regarding the portion of the vessel's bills for ten weeks' time, including sails, railway bills, painting, rigging, cables, and anchors, &c. The ordinary running expenses of a vessel for that period of time, or two and a half months, would amount to that sum of money.

Q. And how is it with respect to depreciation and interest on investment?—A. That is computed on actual value.

Q. You charge interest, \$75, on the money invested?—A. I charge it on \$5,000, the value of the vessel for two and a half months, the time she was employed.

Q. This statement shows that you lost on an average \$128 per trip during these nineteen years, and as there were 170 trips this would amount to \$21,760; will you undertake to say that you lost this amount, and that your actual experience tallies with this approximate which you have submitted?—A. I undertake to say that I would have lost that much if I had nothing to do beyond owning and running vessels.

Q. You mean to say that the gains obtained from one branch of your business recoup you for the loss you sustained elsewhere, and that this leaves you a profit?—A. I suppose so, but as to the profit it does not give us much profit beyond what we earn. Any man who does a day's work earns his wages.

Q. It does not give you a profit beyond the loss which you sustain?—

A. I do not say that; but if we work with our hands, as we all do at home, and do work which other men would not do—for this work we charge, as we expect to do, at least as much as any hired man would.

Q. You are entitled to charge the business for your time, and you take that into consideration?—A. Yes.

Q. And it does not leave you much profit beyond that?—A. Yes.

Q. You make sufficient to live upon and pay your expenses and have some little surplus?—A. We have a trifle over sometimes, some years.

Q. Have you not on the whole, during these nineteen years, put something to the good?—A. Yes. During the four years of the war I made money beyond what I ever did in my life at any other time; and that gave me capital and something to pay my debts with and for vessels; but this was during four years, while our currency was inflated and prices high. These are the only four years during which I made money to speak of, but now when I take stock one year and then take it next year, I find there is no margin. Of course this is plain talking, and these are facts taken from my books. There was no margin for all last year's work; and there was no difference between last year's balance and that of the year before, but the year before that we made a very good year's work.

Q. Last year you sent all your vessels to fish off the American shore, one excepted?—A. Yes.

Q. And you say you did not make any money; you lost?—A. I did not make or lose much in British waters the year previous.

Q. But last year you lost money?—A. Last year I did not make anything.

Q. You came out square?—A. About—I suppose so.

Q. You have stated that you examined your books, and that if I refer to them I will find so and so?—A. Yes.

Q. Did you make or lose by the transactions of last year?—A. There were \$1,000 difference between the last year and the year before in my stock account.

Q. And the year before you made \$1,000?—A. Yes; and the year before that I made more than \$1,000, according to my books.

Q. Which way was the \$1,000, to the good or to the bad, last year?—A. It was so little that I forget, but the year previously it was on the right side.

Q. The years 1875 and 1876 were the best years, I have understood, that you have had on the American coast for a long time?—A. Well, I do not know about that.

Q. I mean as regards the catch of mackerel?—A. I did not get part of it. I did not get any, if it was so.

Q. Were not these years the best you have had on your coast for some time for mackerel seining?—A. I only had one vessel catching mackerel on our coast last year; the others were cod-fishing; and that is where I am short. Yes; I think that last year and the year before were two very good years on our coast.

Q. Then, I understand that the result of your evidence would be this, that the Commission are to understand that while the actual fisherman does not make a profit out of his business, the fish merchant makes a handsome profit?—A. No.

Q. You have lost \$21,000 as a fisherman during these 19 years, and as a merchant you have recovered this \$21,000 and something over?—A. I made part of that in the business of fitting out vessels and packing the mackerel.

Q. That is the mercantile branch of your business ?—A. You may put it that way. Yes.

Q. That would be the sum and substance and result of your testimony ?—A. Yes.

Q. Am I to understand that seining, as practiced on the American coast, is a benefit or disadvantage to the fisheries along the coast ?—A. I think that it is a disadvantage. I consider that it will prove to be a very expensive way of catching the fish. This year is a very disastrous year.

Q. In what way ?—A. There are no fares to pay the bills with.

Q. And do you ascribe that in any degree to the process of catching the fish with seines ?—A. Yes, partly ; and there are other causes for it. I think that the larger fish have driven off the smaller.

Q. And all things combined, it is a very bad year ?—A. It is a considerably bad year. Few vessels have done well.

Q. You stated you believed that not more than one-tenth of the fish were caught inshore in the bay ?—A. Yes ; one-tenth or one-eighth.

Q. This statement conflicts with other evidence. You, as a matter of fact, have never fished in the bay at all ?—A. I have not.

Q. And you do not know, as an actual fisherman, where the fish are caught ?—A. No.

Q. You have derived your information on the subject from your captains and others ?—A. Yes.

Q. Do you know the general opinion about this matter ?—A. I do not.

Q. Do you know whether the Boston merchants entertain any strong opinion in opposition to the one you have given ?—A. I do not. I never heard that they had stated anything on the subject.

Q. I refer to the Boston Board of Trade ?—A. I do not know how they should know anything more about that than myself. I never knew that the Boston Board of Trade had said anything about it. I never heard that they talked fish. You allude, perhaps, to the Boston Fish Bureau.

Q. Perhaps. Are the merchants who handle your fish and get a commission on the transaction opposed to your view ?—A. They are interested in the trade between the provinces and Boston.

Q. Do they know where the fish are caught ?—A. They have a very limited knowledge concerning this matter.

Q. But some of them would be old fishermen ?—A. I do not know that this is the case with any of them.

Q. You think that your opinion would be as good as theirs ?—A. I think it would be far better.

Q. Neither you nor they have ever been fishing in the bay ?—A. But they have no vessels or property there, and they have not inquired about it nor paid licenses.

Q. You would prefer the opinion of a man who had been there catching fish ?—A. I think such testimony would be better and safer than my own, as he would speak from actual knowledge.

Q. You are not speaking as a practical fisherman at all ?—A. I speak as an owner and one who risks his property in the fishing business.

Q. In the statement you made, I think you said you charged interest at the rate of 7 per cent. ?—A. It was 6 or 7. I have not figured it exactly ; but it is roughly calculated as between 6 and 7 per cent. for two or three months.

By Mr. Foster :

Q. For a voyage of ten weeks ?—A. Yes.

Q. And what do you call the interest?—A. \$75 for two and one-half months.

By Mr. Davies:

Q. What percentage did you allow for depreciation? You allow \$100, and that would be nearly 10 per cent.?—A. I did not allow any particular percentage.

Q. It would be at the rate of 10 per cent. per annum?—A. Yes.

By Mr. Foster:

Q. What is the value of the vessel?—A. \$5,000.

Q. At what rate did you compute the interest?—A. I estimated it. I did not compute it at all.

Q. And you call it \$100?—A. Yes; for the use of a vessel for ten weeks' time. I estimated it at that sum from my experience.

By Mr. Davies:

Q. When fish were imported, while duties were imposed, they were warehoused, were they not?—A. I cannot answer that question directly. Very few were imported at Gloucester.

Q. Do you know the trade sufficiently to answer it?—A. I do not think that I do.

Q. I desired to know whether when fish were imported at the time the duty was on, you drew a distinction between those imported for consumption and those imported for re-exportation. Also, whether you fixed any value upon them at the time?—A. I cannot answer that question intelligently. I never imported any mackerel.

Q. What was the average cost per ton of a vessel afloat during the Reciprocity Treaty?—A. Sixty dollars.

Q. Is that now or then?—A. That was during the Reciprocity Treaty, before the war prices came on.

Q. What is it now?—A. About \$68 a ton, carpenter's measure.

Q. What is the difference between carpenter's measure and the present mode of measuring?—A. The latter is about two-thirds of carpenter's. A vessel 100 tons by the latter system would be 67 tons new measurement.

Q. Are you able to state what is the cost per ton for a whole mackerel-fishing voyage or season?—A. I cannot give you the exact cost of running these vessels.

Q. I mean for wages, provisions, fishing gear, &c.?—A. The figures contained in the summary for 3 vessels which I have here will give you the cost, as the current running bills for each year are there.

By Hon. Mr. Kellogg:

Q. What is their tonnage?—A. I think that the tonnage is given with the names. It is new measurement.

By Mr. Davies:

Q. I understand you to say that you were the author of this memorial?—A. No, but I was a member of the committee. Dr. Loring was chairman, and he penned the document, while Baker and myself criticised it.

Q. And did it meet with your full approval, or did you merely sign it as a matter of form?—A. It met with my approval. I studied it before I signed it. I do not sign promiscuous documents. I think that it met with my approval. I do not know exactly. I have not seen it for some time.

Q. What was the object of this memorial?—A. It amounted to so little that I have lost all run of it.

Q. What was its object?—A. It was to make our government understand that we needed some help to continue our business. We were in former years granted a bounty, and in other ways we had been helped to sustain ourselves.

Q. Then it prayed the government to continue the bounty system?—A. I think that it embraced that, or some other statement as to relief being required by us to afford an offset for the \$2 a barrel duty which was taken off your fish.

Q. You wanted the government to do something for you?—A. Yes.

Q. Did you definitely express what that something was, or did you just deal in generalities?—A. I think it was rather couched in generalities. I believe that we spoke of what they had done, and desired that they should consider our interests in some way. Afterwards we obtained a repeal of the duty on salt, which was some relief to us.

Q. And now your salt is free of duty?—A. Yes, with the exception of weighing-fees, 8 cents per hogshead, and papers.

By Mr. Foster :

Q. It was two years after the ratification of the Washington Treaty before this repeal went into operation?—A. Yes.

By Mr. Davies:

Q. You said that the Magdalen Islands was one of the safest parts of the gulf?—A. For fishing purposes for vessels, I consider them a great deal safer than Prince Edward Island, though around Georgetown there is a good harbor.

Q. I understand you to speak almost solely from information that you have gained as a merchant in Gloucester and from your connection with insurance companies, &c.?—A. I have been all around Cape Breton and Prince Edward Island, and I know the location of the harbors. I have never been at the Magdalen Islands.

Q. Therefore you speak entirely from hearsay; do you not know, as president of an insurance company, that some years at least you had serious losses at the Magdalen Islands?—A. Yes; in 1873 our losses there were very serious.

Q. How many vessels were lost there that year?—A. None; but a great many went ashore. I was president of the company that year. We got these vessels off. Those that were lost were in the bend of the island; there vessels and crews were lost; and that is where the risk is.

Q. This is novel information for me.—A. It is true. Vessels and crews were lost in the Bend of Prince Edward Island.

Q. In 1873?—A. Yes.

Q. Are you really sincere in making that statement? Name the vessels and crews.—A. There was Capt. James Cushing, who was in charge of a Gloucester vessel; but I cannot think of her name. She was lost with all hands; and was last seen stretching up the bend of the island. The vessel's boat came ashore just above Tracadie; and neither he nor his men were ever afterwards seen.

Q. This happened off the bend of the island?—A. Yes.

Q. How far off?—A. It was perhaps off Tracadie or Rustico.

Q. You do not know how far off at sea she was?—A. He was last seen doing the best he could to get by North Cape, but he did not succeed.

Q. I thought that the vessels went ashore with the crews?—A. No; these were vessels that struck on the bottom, or else they would not have been lost.

Q. That is the only vessel you know of?—A. Yes.

Q. And how many vessels were lost at the Magdalen Islands, which

is, you say, the safest place in the gulf?—A. One vessel and her crew; and we consider such a loss heavier than if 8 or 10 vessels go ashore, but are got off.

Q. But how many went ashore there?—A. Twenty-odd vessels. We had 38 vessels, more or less, stranded that year in the bay.

Q. And twenty-odd of them went ashore at the Magdalen Islands?—A. Yes.

Q. Were there not more than 20?—A. The number was about 20. I could not say exactly.

Q. Would you say that 30 vessels were not cast ashore at the Magdalen Islands?—A. The number was 24, if I remember the figure aright.

Q. I will give you some names; there was the Arizona?—A. Where was she ashore?

Q. At Amherst Harbor.—A. Yes.

Q. Then there was the Annie C. Norwood?—A. I remember her.

Q. And the H. M. Woodworth, cast ashore at Amherst Harbor?—A. I guess that she was not a Gloucester vessel.

Q. I am alluding to American vessels generally. Then, you say that there were 20 Gloucester vessels which went ashore at the Magdalen Islands?—A. Yes.

Q. And you would not be surprised to learn that ten others went ashore there?—A. There were more than 10. I think there were as many as 10 I know of, from Eastport and Boston.

Q. These were all fishing-vessels?—A. Yes. Most of them got off safe, but the vessels around East Point and the bend of the island were lost totally, crews and all.

Q. Perhaps they were out at sea?—A. They were in the bend of the island.

Q. The Carrie C. Rich went ashore on Prince Edward Island; but can you name any other American vessel from Gloucester or elsewhere that did so?—A. The vessels lost with all hands were last seen going up the Bend of Prince Edward Island.

Q. They were at sea?—A. They did not get by North Cape; that was what was the matter with them; else they would have been saved.

By Mr. Foster:

Q. The gentlemen on the other side do not understand what makes a Massachusetts town prosper; and I would like to know, in the first place, whether the valuation of Gloucester to-day does not stand substantially as it did during the war?—A. Yes; very nearly.

Q. So that there has not been a great deal taken off from the valuation made in war times?—A. No; very little.

Q. And yet is it not the experience of almost everybody in the United States that owned property at the close of the war that it shrunk one-third?—A. Yes.

Q. Gloucester has grown, undoubtedly, but take Essex County, in which Gloucester is situated; and what are the other towns in this county that used to have a considerable fishing business; the comparison has been made between 1840 and the present time; and what are the other places in Essex County that used to have a fishing business, which has left them and been absorbed into Gloucester—Salem, Marblehead, Manchester, Beverly, and Newburyport—what has been the history of the fishing business in these towns?—A. It has entirely gone from Manchester. I remember the time when 18 vessels were owned there, but they have not had any for 20 years. Salem had a fleet of 20 vessels, and has none now. The fleet of Beverly has decreased to about 20, a decrease of 50 per cent. in these 15 years.

Q. Taking the fishing seaport towns of Massachusetts and comparing them with towns in the interior, where they cannot possibly catch mackerel in British waters, I want to know how the relative growth of seaport towns, either in Essex County or in any of the other counties on the sea-coast, compares with the growth of towns in Essex, Middlesex, and Worcester Counties, away back in the interior?—A. I will express myself in this way: The towns of Beverly and Marblehead, which once carried on a large fishing business, have turned their attention to the manufacture of shoes, and have become shoe towns now, letting the fishing business go.

Q. Take any of the seaport towns and compare their proportions in 1840 and 1877; for instance, take Worcester, which has grown during this period from 7,000 to 45,000.—A. I could not give the exact figures.

Q. Worcester contained 7,000 people in 1840; have not Clinton, Webster, and Franklin, and all these towns grown?—A. Yes; and also Haverhill and Lawrence, Lowell and Lynn.

Q. Has their growth not been in greater ratio than that of Gloucester?—A. I do not know of any place in Essex County of any account, except Newburyport, which has not held its own with Gloucester and gone ahead.

Q. Newburyport has decayed and lost her vessel business, and with the exception of some contracts has not gained anything else?—A. Yes.

Q. And Salem has been a decayed town?—A. Yes.

Q. But the great body of the towns in Massachusetts, wherever situated, have grown and prospered from 1840 up to this time in fully as great a ratio as Gloucester?—A. Yes.

Q. How have they grown up?—A. Through the products of the soil and manufacturing.

Q. Down in Orleans they make artificial ice out of water and make out of it a profitable business, I believe, but it does not follow that the water before it is frozen has any particular value to be paid for; does it? And you say that fish in the sea have no commercial value—explain what you mean. Does a man who catches fish in the sea get in return for his time and labor anything more than moderate wages for his work?—A. That is about the way I have placed it. He does not get any more than or as much as he would for the use of the same labor and the same time in any other ordinary pursuit.

Q. And in this business?—A. He runs the risk of his life.

Q. And in your own business you have combined the business of a man who distributes the food with that of an owner of fishing-vessels?—A. Yes.

Q. And the profits of your business have come, not from the catch of your vessels, but from the mercantile profits that follow; is that the case also with the rest of them?—A. They all do the same thing. This gives employment to a number of men who handle the fish.

Q. And the fishermen do not make over \$300 a year to support themselves and their families on shore?—A. Yes.

Q. And they are boarded on the vessel for perhaps two-thirds of the year. Comparing that with the remuneration received in other branches of manual labor, is it up to the average?—A. I think not.

Q. Is it up to the average which shoemakers receive?—A. I think not.

Q. Is it the average of what men who work on farms receive?—A. I do not think so.

Q. For how much can you hire a common laboring man in Gloucester

throughout the year, he boarding himself?—A. We pay \$60 a month to some and \$50 to others, for ordinary labor on the wharf. The fisherman, I suppose, lives on board his vessel about two-thirds of the year, and at home during the other third.

Q. And he has to support his family on \$300?—A. Yes.

Q. So that actually these fishermen imperil their lives and get less than they could obtain for their labor elsewhere?—A. Certainly.

Q. Has it not been always so?—A. Yes; this business attracts the adventurous, who begin it early in life and find it hard to change, and to some extent those who are wild and fond of excitement.

Q. But is it as profitable a business to the fisherman as would be ordinary work at home?—A. No; most of our crews are formed of young men; with two-thirds this is the case.

Q. You say you never knew a man who retired from the fishing business in Gloucester worth \$50,000?—A. No, I never did.

Q. I suppose that to-day Andrew Leighton is worth that?—A. He has not retired, and he is losing it fast. If he keeps at the business two or three years more he will have nothing to lose.

Q. You cannot get out of the fishing business?—A. You cannot sell your property when you want to go out in a bad year, for nobody will buy.

By Mr. Davies :

Q. Why not go out in a good year?—A. One does not want to do so then.

By Mr. Foster :

Q. I suppose that outside people have shares in Gloucester fishing-vessels?—A. No.

Q. They have had?—A. Yes; but they have given it up.

Q. Did you ever know anybody who took a share in the fishing business make money out of it?—A. I never knew such a person get his money back again, unless the vessel was sold or accidentally lost, when through the insurance he would secure part of it.

Q. That is a notorious fact?—A. Yes.

Q. In your business you secure in fact the profits of a commission-merchant, I suppose?—A. Yes.

Q. And there is where all the money is?—A. Yes.

Q. Some of us have been there and know how it is?—A. We have not had any money to invest in railway stocks, and that is why things with us are not so bad as they might be.

Q. These people who have at all laid up money in Gloucester in the fishing business have been men who have gone into the business early in life, as soon in fact as they were able to work, when 15 or 16 years old, and who have gone on and laid up money?—A. No one has made any money there.

Q. Some have; take Leighton's case?—A. He has not laid up any money. He has it invested in property, but he has not got any money. His property is worth more than enough to pay his debts.

Q. There is a great shrinkage in the price of vessels when sold?—A. Yes.

Q. Did you go to Washington before the Washington Treaty was ratified?—A. It was before the treaty was completed, and previous to that. I was there a week on the former occasion.

Q. This petition was presented the year following?—A. Yes.

Q. Were you there after its provisions were known to remonstrate

against its ratification?—A. I was there before the treaty was completed and at the time when it was completed.

Q. Originally the fishing-vessels of Massachusetts were largely engaged in the cod fishery?—A. Yes.

Q. And the mackerel fishery has since grown up?—A. I remember the first man who went to the bay to catch mackerel.

Q. But the cod fishery is two hundred years old?—A. Yes; it is ancient.

Q. And in connection with it there used to be a bounty?—A. Yes.

Q. How much was it?—A. \$4 a ton.

Q. For every vessel?—A. It was paid for every vessel that was at sea fishing 4 months for cod.

Q. When was this bounty taken off?—A. I cannot give the year; it was perhaps twenty years ago.

Q. Was not this bounty a pretty important element in the cod fishing business?—A. Yes.

Q. And when it was removed it was felt that the fishing interests must decline?—A. Yes.

Q. Did you ever know of a nation where the fishing industry prospered except under a bounty?—A. No.

Q. Is it not always then prosperous because it is the policy of the nation to cherish it as a nursery for its seamen?—A. The French always pay a bounty.

Q. And did not the duty on Canadian-caught fish replace the bounty?—A. Yes; and the reduction of the duty on salt was granted as an offset for the removal of the duty.

Q. And that came later?—A. Yes; two or three years after the ratification of the treaty.

Q. When it was proposed to take the duty off you remonstrated, thinking that this would reduce the price of fish, and this was the general feeling among the fishermen and of the inhabitants of the coast of New England?—A. Yes.

Q. And the next year after the Washington Treaty went into operation you got help in the form of a drawback on salt?—A. Yes. The government passed an act allowing salt to be used in the curing of fish to be entered duty free.

Q. You took it out under bond?—A. Yes; and at the end of the year we furnished sufficient proof that it had been used in the curing of fish. A small charge, 8 cents per hogshead, was made for weighing.

Q. How does the gain you obtain by the removal of the duty on salt compare with the gain which was derived from the old bounty system?—A. It is in part an equivalent; but I have not figured it up. I think one-half, or about that, went to the owners under the bounty system.

Q. The poorer qualities of mackerel are used as food by the poor?—A. Yes; and they used to be shipped in great quantity to the Southern States; very few were sent to the West Indies. We supposed that they were used on the plantations.

Q. Any considerable rise in price would destroy this market?—A. Yes; if they do not buy this sort of fish at a low price they will not buy it at all.

Q. Then what market is there for the very best mackerel, the other extreme, which is a luxury for which some are willing to pay a pretty high price?—A. This mackerel is used by families and in hotels in New York; and 10,000 barrels would be a large quantity of this quality to sell in the United States market at anything over \$20 a barrel.

Q. The impression seems to prevail in some quarters that the pros-

perity of Gloucester grows out of the right to catch fish within three miles of the shore in British territorial waters; is there any appreciable part of the growth and wealth of Gloucester which depends on this privilege?—A. I do not consider that it is any addition at all to the wealth or growth of Gloucester

Q. You never knew a New England town where there were enterprising men, who began poor and lived economically, who did not increase in wealth?—A. No.

By Mr. Davies:

Q. Why do these men go fishing for \$300 a year when they can get \$600 by working on your wharves?—A. If they did not go fishing no employment could be had on the wharves. Besides, the young men would rather go fishing. It is their nature to be on the water. They are used to it, commencing this life when they are boys; and they like its associations and to be with their friends on the water and have a jolly time.

Q. And money has nothing to do with it?—A. It has very little; but the associations and the chance they have of doing better than \$30 a month has. They all go on shares.

Q. They have a chance to rise and become masters?—A. Yes; and make more than thirty dollars a month.

By Mr. Trescott:

Q. Do these young men come from here?—A. Yes; from Halifax in particular; a large number comes from the provinces and Newfoundland. Three-fourths of our crews are single men.

Q. Do they settle very largely in Gloucester?—A. Yes; our increase of population has come largely from Nova Scotia.

By Sir Alexander Galt:

Q. I suppose that you have no more difficulty in getting crews to go mackerel-fishing than to go cod-fishing?—A. Our best and our smartest men go cod-fishing, because they can make more at it. Our mackerel-fishing crews are made up of odds and ends.

Q. I thought you kept the vessels' crews together?—A. They will go cod-fishing, and then I will pick up a crew to go mackerel-fishing.

Q. I understood you to say that you employed your vessels perhaps more profitably cod-fishing during certain months of the year than at anything else; and that then you kept them employed either on your own coast or in the Bay of St. Lawrence during the intermediate months; that in fact the cod and mackerel fisheries fitted into each other, enabling you to employ your vessels to advantage throughout the years; and that though it might be disadvantageous during one particular trip, still the trade was so arranged that it enabled you for ten months of the year to use your vessels in a certain circle of employment?—A. Yes. Our vessels make six or eight voyages a year; but these men are not attached to the vessels save perhaps for one trip. They change from one vessel to another. The best men follow cod-fishing on the Banks, and the poorest men, the old men and boys, follow mackerel fishing.

Q. You have said, I think, that cod-fishing was so hard on them that they were very glad to go into the bay or on your own shores to fish for two or three months at a different and rather easier kind of fishing?—A. Yes; and then there is a class of men that man our vessels on mackerel voyages, and on these it is that we learn our boys the business. Afterwards they will go cod-fishing. The mackerel-fishing business in one sense has been a sort of nursery for fishermen among our

natives and was so until Nova Scotia and Newfoundland became such a nursery for us. These countries now raise up our fishermen, and they do not come among us until they are of age.

Q. The object of my inquiry was this: It struck me from what you said that there was a very intimate connection between the cod and mackerel fisheries?—A. That is the case; the halibut fishery is included in the same category.

By Mr. Davies:

Q. Do you find any difficulty to get men to go on Georges Bank?—A. Not much.

Q. Is it not considered one of the most dangerous fishing places in the world?—A. It has been a very disastrous place some seasons; but within the past few years the disasters on the Grand Banks have exceeded those on Georges Bank; and some years the disasters in the bay have been more severe than those on Georges. We find that the dangers are divided around. We lost as many as 140 men one spring on Georges Bank. Some years it is very dangerous there.

By Mr. Foster:

Q. I am reminded that you said you recollected the first year when a mackerel-fishing vessel went to the bay?—A. I did not say so. I remember, however, a man who went on this first vessel.

Q. Who was he?—A. Capt. Charles Wood. He is now dead—he died a few years ago.

Q. You must have been pretty young at the time?—A. I was not very old; that was in 1830 or 1831.

Q. What proportion of the fishermen of Gloucester come from the provinces?—A. I suppose that over one-half of them come from the provinces and Newfoundland.

Q. And how is it with the skippers?—A. Well, I suppose that over one-half of our vessels are now skippered with natives of Nova Scotia.

Q. Though they are really and nominally naturalized?—A. Of course they are naturalized after a time; they are good fishermen.

Statement handed in by Mr. Joseph O. Procter, October 1, 1877, and referred to in his evidence.

Year.	Trips.	Bbls.	Value.	Av. trip.	Av. value.	Men.	Time.	
1857.....	9	1,561	\$12,189	173	\$7 80	12 men and two boys.	Ten weeks.	
1858.....	14	1,631	19,670	117	12 00			
1859.....	10	797	9,850	80	12 30			
1860.....	15	1,448	17,234	96	11 90			
1861.....	9	1,896	9,905	211	5 20			
1862.....	3	698	5,305	233	7 60			
1863.....	6	1,424	15,628	237	10 96			
1864.....	12	3,346	37,256	278	11 13			
1865.....	12	2,914	41,360	243	14 30			
1866.....	14	3,127	49,224	223	15 74			
1867.....	9	1,977	24,169	219	12 22			
1868.....	10	1,089	20,293	110	12 45			
1869.....	3	637	11,348	212	17 60			
1870.....	3	458	5,418	153	11 90			
1872.....	7	1,324	13,060	190	9 86			
1873.....	14	2,701	26,009	193	9 85			
1874.....	13	2,436	13,502	188	5 52			
1875.....	6	815	11,785	135	14 46			
1876.....	1	190	2,099	190	11 05			
19 years.....	170	30,499	345,964	3,481	219 94			
				183	11 57			

Average trip, 183 bbls. at \$11.57.....	\$2, 117
Less for bait	180
	2) 1, 937
Crew—half	968
Owner's—half.....	968
Crew's half, \$968. 14 hands, 10 weeks, or \$27.64 per month.	
Owner's half	968
Average value of vessels	5, 000

Cost of voyage.

Insurance, \$125.00; commission to master, \$76	201
Provisions, oil, and fuel, \$390; salt, \$80.....	470
Fishing gear, \$50; vessel's running expenses, \$200.....	250
Depreciation on vessel, \$100; interest on investment, \$75.....	175
	1, 096

Average loss per trip.....	128
Charter of schooner, 90 tons, at \$2 per ton per month—3 months.....	540
Insurance	\$125
Running expenses.....	200
Depreciation	100
Interest	75
	\$500

1857.			
Sept. 4.	Sch. Lancet.....	217 $\frac{1}{2}$	\$2, 773 86
26.	Lua Amelia	141 $\frac{1}{2}$	1, 292 86
29.	Prisilla Brown.....	109 $\frac{3}{4}$	716 75
Oct. 13.	Pocahontas.....	173 $\frac{1}{2}$	1, 304 34
27.	Ella Osborne.....	237 $\frac{3}{8}$	1, 567 95
31.	Martha & Eliza.....	219 $\frac{1}{2}$	1, 455 15
29.	Ocean Lodge.....	194 $\frac{1}{2}$	1, 290 91
Nov. 9.	E. A. Procter.....	154 $\frac{1}{8}$	1, 018 23
21.	Lancet.....	117	774 74
	(9)	1, 561	12, 194 79

1858.			
Aug. 30.	Sch. Lancet	138	1, 478 26
31.	Alfarata	128	1, 634 11
Sept. 1.	E. A. Procter	127	1, 480 70
16.	Martha & Eliza.....	146	1, 688 23
18.	Emporia	140	1, 782 80
28.	Pocahontas.....	138 $\frac{1}{2}$	1, 439 07
	Ocean Lodge.....	113	1, 219 35
Oct. 19.	Gentile.....	146 $\frac{3}{8}$	1, 498 82
Nov. 13.	Lancet.....	76	962 44
16.	Alfarata	171	2, 201 86
20.	Emporia	76	1, 057 44
29.	E. A. Procter.....	78	1, 105 53
30.	Martha & Eliza.....	115	1, 631 12
1859.			
Jan. 5.	Geranium.....	38	490 9
	(14)	1, 631	19, 670 12

1859.			
Aug. 30.	Sch. Lancet.....	142 $\frac{1}{2}$	1, 553 42
Sept. 13.	E. A. Procter	99 $\frac{1}{2}$	1, 028 78
16.	Pocahontas.....	44	533 23
Oct. 11.	Ellen Maria	192	1, 675 38
Nov. 8.	Gentile.....	122	1, 506 00
15.	Lancet	79	1, 041 06
19.	Huntress	47	616 30
21.	E. A. Procter.....	36	487 49

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1859.				
Nov. 22.	Ocean Lodge	85	\$1, 139 65	
23.	Pocahontas	20	272 14	
		(10) 797	9, 853 49	
1860.				
Aug. 23.	Sch. Saint Louis	124½	1, 314 08	
30.	Ocean Gem	76½	853 05	
31.	E. A. Procter	53½	476 92	
Sept. 8.	Emporia	53½	664 14	
18.	Signor	23½	363 38	
Oct. 18.	Ellen Maria	122½	1, 679 00	
19.	Olive Branch	54	739 00	
25.	Lone Star	151½	2, 150 00	
29.	Gentile	102½	1, 300 23	
Nov. 6.	Morning Star	96	1, 142 54	
10.	Ocean Lodge	84	1, 001 30	
10.	Emporia	76	990 44	
14.	Lancet	197½	1, 947 93	
17.	Pocahontas	162½	1, 825 90	
21.	Martha & Eliza	72	786 10	
		(15) 1, 448	17, 234 03	
1861.				
Aug. 23.	Sch. Ocean Gem	269½	900 28	
Sept. 4.	Saint Louis	270½	850 68	
11.	Morning Star	228½	794 19	
Oct. 15.	Martha & Eliza	173½	764 00	
Nov. 6.	Ocean Gem	146½	944 84	
	Emporia	249	1, 709 86	
11.	Lancet	232½	1, 379 51	
23.	Morning Star	97½	843 82	
26.	Ocean Lodge	229½	1, 628 21	
		(9) 1, 896	9, 905 38	
1862.				
Oct. 24.	Sch. Morning Star	272½	1, 814 10	
30.	Emporia	191	1, 336 40	
Nov. 20.	Lancet	235½	2, 151 38	
		(3) 698	5, 305 88	
1863.				
Sept. 4.	Sch. Lancet	259½	2, 714 96	
8.	Emporia	244½	2, 950 73	
Oct. 26.	Morning Star	185½	1, 958 93	
31.	"	274	2, 838 60	
Nov. 4.	Emporia	248	2, 812 69	
14.	Lancet	214½	2, 352 25	
		(6) 1, 424	15, 628 16	
1864.				
Oct. 7.	Sch. Ocean Lodge	232	2, 637 44	
7.	Emporia	210	2, 478 04	
7.	Lancet	258	2, 837 35	
8.	Martha and Eliza	226	2, 627 27	
12.	Morning Star	299	3, 235 95	
20.	Ocean Lodge	249	2, 744 37	
Nov. 1.	Lancet	289	3, 360 07	
3.	Martha and Eliza	258	2, 772 79	
7.	Morning Star	241	2, 777 86	
9.	T. M. Loring	506	5, 271 19	
10.	E. A. Procter	348	3, 935 16	
16.	Emporia	230	2, 579 00	
		(12) 3, 346	37, 256 49	

1865.				
Sept.	4.	Schr. Reunion	277	\$3,376 75
"	"	Morning Star.....	274	3,496 81
"	7.	Lancet	272	3,371 00
"	19.	Emporia.....	215	2,965 15
"	22.	Ocean Lodge.....	244	4,167 39
"	26.	Northern Light.....	358	5,380 00
"	"	Martha and Eliza.....	237	3,184 35
"	27.	Northern Light.....	42	806 76
Nov.	1.	Martha and Eliza.....	185	2,612 87
"	3.	Lancet	248	3,751 90
"	8.	Morning Star.....	322	4,694 15
"	13.	Reunion	240	3,551 40
			(12)	2,914
				41,358 53

			1866.			
License—\$	41 18	Harvest Home,	Aug.	6	263	3,244
		Do.	Oct.	29	302	4,812
	66 92	Rennion,	Aug.	9	328	4,012
		Do.	Oct.		184	3,140
		Do.	Oct.	27	115	1,804
	64 00	Eastern Light,	Aug.	16	310	4,565
		Do.	Nov.	8	278	4,692
	46 80	Lancet,	Aug.	27	219	4,039
		Do.	Oct.	30	96	1,526
	35 25	Northern Light,	Sept.	5	178	2,900
		Do.	Nov.	1	111	1,787
	33 12	Morning Star,	Sept.	6	280	5,152
		Do.	Nov.	14	188	3,044
	41 66	Emporia,	Sept.	29	94	1,649
		Do.	Oct.	27	181	2,803
					(15) 3,127	49,224

		1867.		
102 43	H. S. Clark,	Aug. 28.....	225	2,754
	Do.,	Nov. 11.....	256	3,282
63 23	Ocean Lodge,	Oct. 22.....	252	3,206
101 00	Eastern Light,	Oct. 25.....	203	2,486
75 72	Morning Star,	Oct. 31.....	308	3,603
81 43	Lancet,	Nov. 1.....	181	2,020
	Emporia,	Nov. 6.....	190	2,261
82 12	Empire State,	Oct. 17.....	215	2,721
	Do.,	Nov. 11.....	147	1,836
			9) 1,977	24,169

		1868.		
	S. Colfax,	Sept. 7.....	144	2,457
	Do.,	Nov. 13.....	63	1,265
	Joseph O.,	Sept. 6.....	155	2,783
	Do.,	Nov. 3.....	67	1,263
	O. Lodge,	Sept. 30.....	81	1,412
	Emporia,	Oct. 24.....	137	2,386
	Lancet,	Nov. 4.....	123	2,286
	Morning Star,	Nov. 3.....	140	2,627
	H. S. Clark,	Nov. 13.....	80	1,742
164 41	Empire State,	Nov. 14.....	109	2,072
			10) 1,099	20,293

		1869.		
S. Colfax,	Sept.	24.....	202	3,170
Empire State,	Oct.	1.....	200	3,333
H. S. Clark,	Oct.	31.....	235	4,845
			3) 637	11,348

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		1870:		
S. Colfax,		Aug. 23.....	178	\$1,488
Joseph O.,		Sept. 3.....	186	2,550
S. Colfax,		Oct. 29.....	94	1,070
			3) 458	5,418
<hr/>				
1872.				
J. O.,	Aug. 27.....	234	2,214	64
O. L.,	Sept. 3.....	167	1,363	25
Poca.,	7.....	194	1,516	20
S. C.,	9.....	240	2,105	42
F. S.,	Oct. 15.....	267	2,729	87
Poca.,	19.....	42	477	60
O. L.,	22.....	60	000	00
J. O.,	Nov. 1.....	180	2,654	00
			7) 1,324	10,698 30
<hr/>				
1873.				
Pocahontas,	Aug. 12.....	170	1,258	71
O. Lodge,	16.....	213	1,792	61
J. O.,	23.....	263	2,609	09
Lancet,	Sept. 6.....	190	2,183	57
M. Star,	12.....	161	1,770	80
Flora,	13.....	117	1,435	78
H. S. Clark,	Oct. 30.....	471	4,383	35
Poca.,	Nov. 1.....	142	1,348	28
O. L.,	4.....	132	1,312	12
J. O.,	10.....	239	2,343	36
S. C.,	14.....	157	1,529	60
M. S.,	17.....	80	791	15
F. S.,	22.....	313	3,289	64
Lancet,	22.....	53	561	41
			14) 2,701	26,609 47
<hr/>				
1874.				
Joseph O.,	Aug. 24.....	280	1,767	90
Victor,	28.....	265	1,710	95
O. L.,	Sept. 29.....	119	683	74
Poca.,	30.....	115	569	65
"	Nov. 9.....	50	245	57
O. L.,	11.....	125	649	04
Vic.,	13.....	276	1,496	92
S. C.,	17.....	352	1,810	75
J. O.,	18.....	173	978	44
Lancet,	18.....	187	957	12
"	21.....	254	1,361	09
F. S.,	23.....	185	1,037	08
Lancet,	Dec. 7.....	75	294	71
			13) 2,456	13,562 96
<hr/>				
1875.				
Lancet,	Sept. 27.....	184	2,202	60
Bar,	Oct. 3.....	188	2,554	07
Lant.,	Sept. 27.....		0 00	
J. O.,	Oct. 26.....	208	2,469	90
G. W. S.,	Nov. 5.....	91	1,438	36
S. C.,	5.....	91	1,378	52
Lant.,	5.....	53	742	03
			6) 815	11,785 43
<hr/>				
1876.				
J. O.,	Oct. 23.....	190	2,099	50

Schooner Hattie S. Clarke 70.63 tons.

1867.—Cost of hull	\$6,540 00
Cost of rigging, sails, furniture, and running expenses	7,476 05
	<hr/>
Cr.—By earnings	14,016 05
	5,334 43
Balance	<hr/>
1868.—Running expenses	8,681 62
	4,123 68
	<hr/>
Cr.—By earnings	12,805 30
	3,879 81
Balance	<hr/>
1869.—Running expenses	8,925 49
	4,865 69
	<hr/>
Cr.—By earnings	13,791 18
	5,149 78
Balance	<hr/>
1870.—Running expenses	8,641 40
	3,692 47
	<hr/>
Cr.—By earnings	12,333 87
	3,527 30
Balance	<hr/>
1871.—Running expenses	8,806 57
	4,011 03
	<hr/>
Cr.—By earnings	12,817 60
	3,033 87
Balance	<hr/>
1872.—Running expenses	9,783 73
	4,046 24
	<hr/>
Cr.—By earnings	13,829 97
	2,755 98
Balance	<hr/>
1873.—Running expenses	11,073 99
	4,826 18
	<hr/>
Cr.—By earnings	15,900 17
	3,858 66
Balance	<hr/>
1874.—Running expenses	12,041 51
	4,595 53
	<hr/>
Cr.—By earnings	16,637 04
	4,373 55
Balance	<hr/>
1875.—Running expenses	12,263 49
	4,983 85
	<hr/>
Cr.—By earnings	17,247 34
	4,976 20
Balance	<hr/>
1876.—Running expenses	12,271 14
	3,451 28
	<hr/>
Cr.—By earnings	15,722 42
	2,259 89
Balance, January 1, 1877	<hr/>
Value as per insurance policy	13,462 53
	4,253 00

Schooner Joseph O., 65.12 tons.

1868.—Cost of hull.....	\$6,175 00
Cost of rigging, sails, fittings, and bills for running.....	6,957 01
CR.—By earnings.....	13,132 01
Balance.....	4,002 00
1869.—Bills for running.....	8,529 35
CR.—By earnings.....	4,280 97
Balance.....	12,810 32
1870.—Bills for running.....	3,611 87
CR.—By earnings.....	9,198 45
Balance.....	3,956 68
1871.—Bills for running.....	13,155 13
CR.—By earnings.....	3,719 85
Balance.....	9,435 28
1872.—Bills for running.....	2,311 51
CR.—By earnings.....	11,746 79
Balance.....	3,092 66
1873.—Bills for running.....	8,654 13
CR.—By earnings.....	3,364 27
Balance.....	12,018 40
1874.—Bills for running.....	4,256 25
CR.—By earnings.....	7,762 15
Balance.....	3,677 46
1875.—Bills for running.....	11,439 61
CR.—By earnings.....	4,554 45
Balance.....	6,885 16
1876.—Bills for running.....	3,334 42
CR.—By earnings.....	10,219 58
Balance.....	3,553 18
1877.—Bills for running.....	6,666 40
CR.—By earnings.....	3,013 39
Balance.....	9,679 79
1878.—Bills for running.....	4,906 64
CR.—By earnings.....	4,773 15
Balance.....	2,803 48
1879.—Bills for running.....	7,582 63
CR.—By earnings.....	3,291 23
Balance.....	4,291 40
Balance January 1, 1877.....	4,291 40
No interest money or taxes included in the above accounts.	
Values as per insurance policy.....	4,100 30

Schooner Schuyler Colfax, 62.82 tons.

1868.—Cost of hull.....	5,711 00
Cost of rigging, sails, fittings, and expense of running.....	4,032 01
CR.—By earnings.....	9,743 01
Balance.....	1,676 79
1869.—Bills for running.....	8,066 22
CR.—By earnings.....	
Balance.....	

1869.—Bills of running	\$4,432 10
CR.—By earnings	12,498 32
Balance	3,910 05
1870.—Bills of running	8,588 27
CR.—By earnings	3,350 91
Balance	11,939 18
1871.—Bills of running	3,074 16
CR.—By earnings	8,865 02
Balance	3,326 52
1872.—Bills of running	12,191 54
CR.—By earnings	3,203 17
Balance	8,988 37
1873.—Bills of running	2,584 10
CR.—By earnings	11,572 47
Balance	3,612 75
1874.—Bills of running	7,959 72
CR.—By earnings	3,741 92
Balance	11,701 64
1875.—Bills of running	4,214 39
CR.—By earnings	7,487 25
Balance	2,829 74
1876.—Expense of running	10,316 99
CR.—By earnings	2,434 25
Balance	7,882 74
1877.—Expense of running	2,725 69
CR.—By earnings	10,608 43
Balance	2,776 78
1878.—Expense of running	7,831 65
CR.—By earnings	3,503 14
Balance	11,334 79
1879.—Expense of running	2,739 11
CR.—By earnings	8,595 68
Balance January 1, 1877	4,250 00
Value as per insurance policy	

No. 30.

TUESDAY, October 2, 1877.

The conference met.

SIDNEY GARDNER, inspector of customs, of Gloucester, was called on behalf of the Government of the United States, sworn, and examined.

By Mr. Dana :

Question. You were born and always lived in Gloucester ?—Answer. Yes.

Q. When did you make your first trip to the Gulf of St. Lawrence for mackerel ?—A. In 1865.

Q. Had you fished previously ?—A. No.

Q. How many trips did you make that year ?—A. Two.

Q. How much did you catch on each trip ?—A. 200 barrels on the first and 145 on the second.

Q. Where did you catch the 200?—A. We got the most of them on Bank Bradley.

Q. Did you fish any on Bank Orphan?—A. Yes.

Q. Did you catch any within the 3-mile limit?—A. No.

Q. Where did you catch the second trip?—A. At the Magdalen Islands.

Q. Did you take anything within the 3 miles of the coast?—A. No.

Q. In what vessel were you in 1865?—A. The Fashion.

Q. Who commanded her?—A. Capt. Edward Stapleton.

Q. Did you go a second time in the Fashion?—A. No.

Q. When did you ship in the Fashion?—A. I think it was about the 1st of August.

Q. In what vessel did you go in your next voyage in 1865?—A. The Laura Mangan, Captain Stapleton.

Q. How many trips did you make?—A. Two.

Q. How many did you catch on the first?—A. 240 barrels.

Q. And the second?—A. We packed 373 barrels.

Q. Did you take the first trip home?—A. Yes.

Q. Have you a trade besides fishing?—A. Yes; sail-making.

Q. How long were you in the Army?—A. 16 months, I think, during the war.

Q. That was before you went fishing?—A. Yes.

Q. Did you go anywhere in the Fashion before you came down to the bay?—A. No; but she made one trip that year before I went in her.

Q. Where did you go from Canso in the Fashion in 1865?—A. We went up on Bank Bradley, which was mostly our fishing ground.

Q. In the Laura Mangan, you caught your fish on Bank Bradley?—A. Yes; and at the Magdalen Islands. We caught none at all around Prince Edward Island.

Q. Did you then make an especially large catch at any particular time?—A. Yes; we got one spurt—as we call it—200 barrels in three days, at the Magdalen Islands.

Q. And you are sure that in these two vessels you did not fish inshore?—A. Yes; save perhaps at the Magdalen Islands.

Q. Captain Stapleton commanded both vessels?—A. Yes.

Q. And he fished in deep water?—A. Yes; altogether.

Q. Did you go into the bend of the island?—A. Yes; once. We went into Malpeque.

Q. What for?—A. We ran in there for a harbor. We had been fishing, or trying to fish, off North Cape.

Q. Did you catch any fish there?—A. No; none of any account, though we might have raised mackerel there.

Q. As you came along the bend of the island, did you make any attempt to fish?—A. No; no vessels were trying there, and we did not do so.

Q. As a fisherman, you can easily tell if other vessels are fishing, whether they are catching fish?—A. Yes.

Q. It is not necessary for you to go yourself to the place to discover it if you are in sight of them; when you went along the bend did you see any boats out fishing?—A. No; I never, however, went along the whole length of the bend of the island.

Q. Where did you get your bait for these trips?—A. We brought it from home.

Q. What did you so use?—A. Pogies and clams.

Q. All your bait was brought from home?—A. Yes.

Q. What are you now doing?—A. I am inspector of customs.

By Mr. Davies :

Q. You were only in the bay during two years ?—A. Yes.

Q. Were you captain of either of the vessels ?—A. No.

Q. You were only a hand on board ?—A. Yes.

Q. Did you get a pretty good return for your summer's labor ?—A. Well, nothing extra ; it was a fair year's work.

Q. What did you make ?—A. In my first season in the Fashion I made, I think, on the two trips about \$70.

Q. But that would not be a fair representation of the average make of the men ?—A. No.

Q. You were then only a junior, going fishing for the first time ?—A. Yes.

Q. And the second year you did not make an average ?—A. No.

Q. Or perhaps half an average ?—A. O, I made more than that.

Q. Did you go at all into the Bay of Chaleurs ?—A. Yes. We went in there to Paspebiac once for a main-boom. We had lost our main-boom at Bonaventure.

Q. Did you then fish there at all ?—A. No.

Q. You did not try ?—A. No.

Q. I think I understood you to say that you did not try anywhere within three miles of land ?—A. I did not say we did not try within that distance, but that we did not catch any fish there.

Q. Where did you try within three miles of land ?—A. Well, I think off North Cape, Prince Edward Island.

Q. Within what distance of the shore were you ?—A. We might have been within three miles and we might have been six miles off.

Q. Your recollection is so slight regarding this matter that you cannot tell whether you were three or six miles off shore ?—A. Well, I do not think that we caught any fish within three miles of land.

Q. You say you might have been three and you might have been six miles off.—A. That is when we hove to.

Q. Is your recollection sufficiently clear on the point, since it occurred so long ago, to tell us positively whether you were three or six miles off ?—A. I could not answer that question.

Q. What, then, did you mean by telling me just now that you did fish within three miles of land off North Cape ?—A. I said we hove to within that distance. I meant to say that we tried to fish there.

Q. Did you try to fish within three miles of land off North Cape ?—A. We hove to and tried within that distance, but I do not remember that we caught any fish within that distance of land.

Q. Within what distance nearer than three miles of land did you try ?—A. I do not think that we ever tried within three miles of land, but it might have been within three miles of it.

Q. What did you mean by saying that you did try within three miles of the coast ?—A. We might have done so.

Q. Do you state positively this was the place where you did try within three miles of land ?—A. We hove to and tried there within the three-mile limit, I think.

Q. Did you try there or not ?—A. I will say that we have tried within three miles of land.

Q. How close to it ?—A. Well, I could not say.

Q. Was it a mile from it ?—A. No.

Q. Was it two miles away ?—A. I think it was more. I remember that we anchored once off North Cape and that in the morning we tried for fish there.

Q. How close to the shore?—A. We might have been 2 miles off. We do not anchor very close to the land off North Cape.

Q. You might have been 3, 4, or 5 miles off shore; are you sure about it?—A. I think it was less than 3 miles from the coast.

Q. And that was off North Cape, Prince Edward Island?—A. Yes.

Q. Have you a very clear recollection of it?—A. I remember that one time and that is all.

Q. Is there any difficulty in telling what distance you are from the land?—A. Well, I think there is; that is, the exact distance.

Q. It is possible that at times you may have been, without believing it, within 3 miles of the coast?—A. I remember only of heaving to around the island the one time I have mentioned, and that was off North Cape. We anchored there one night and in the morning we hove to, but we did not get any fish there; afterwards we squared away and ran over to Bank Bradley.

Q. Had you a license in 1866?—A. Yes.

Q. And do you mean to tell the Commission that though you had a license to fish within 3 miles of the coast, you never tried to do so except once, and that this was off North Cape?—A. That is the only time I remember of trying inshore.

Q. Do I understand you to mean that you have tried inshore, but that your memory is at fault, and you cannot clearly recollect whether you tried within three miles of land at any other time or not?—A. I do not think that we did.

Q. Is your memory sufficiently accurate to enable you state that positively?—A. Well, I do not remember of any other time that we hove to within three miles of land save that once, while I was in the vessel, in 1866.

Q. I did not speak of heaving, to but of fishing, or of trying to fish?—A. That was the only time I remember.

Q. Of heaving to or trying to fish within three miles of the land anywhere?—A. Yes; save at the Magdalen Islands. We fished there very close to the shore.

Q. That is the only time when you came to anchor?—A. Yes; in my recollection.

Q. Did you never fish near the shore of Cape Breton?—A. No.

Q. Or of any other place?—A. No.

Q. Although you had a license?—A. Yes.

Q. Did you hear of any of the fleet catching fish anywhere around the coast inshore?—A. No.

Q. Were there many vessels in the fleet which was in the bay that year?—A. Well, I could not say.

Q. You were then a beginner in the business, and perhaps you did not take very great interest in such matters?—A. I did not.

Q. Did you pay special attention to the distance from the land at which you caught your fish, or did you ever give this a thought?—A. Well, we did not fish around the land. We fished off shore and at Banks Bradley and Orphan; these were our usual fishing-grounds.

Q. You would not take any pains to keep outside of the three-mile limit when you had a license?—A. Certainly not.

Q. And you yourself were not paying any personal attention to this subject?—A. Of course, if the mackerel had been inshore, we would have gone inshore and fished, but we found the mackerel off shore.

Q. I suppose you caught a good many fish four miles off the land?—A. I do not think it. Most all of our fish were taken out of sight of land, and beyond four miles from it.

Q. Did you fish with seines or with hand-lines?—A. We fished with hand-lines.

No. 31.

STEPHEN J. MARTIN, master-mariner and fisherman, of Gloucester, was called on behalf of the government of the United States, sworn and examined:

Question. Are you a native-born citizen of the United States?—Answer. I was born at Ketch Harbor, Halifax County.

Q. But your home at present is Gloucester?—A. Yes.

Q. When did you first go fishing?—A. I went fishing on our shore when a boy 12 or 13 years of age.

Q. But after you grew up?—A. Then I went into the bay from Gloucester; this was in 1838.

Q. That was your first regular voyage?—A. Yes.

Q. You were not master at the time?—A. No.

Q. Did you make more than one trip that year?—A. No; we were gone three months and we caught 200 barrels.

Q. That was rather poor?—A. Yes.

Q. Were there many vessels in the bay in 1838?—A. No; very few.

Q. In 1839 what vessel were you in?—A. The Mount Vernon.

Q. How long were you in her?—A. About three months.

Q. What was your catch?—A. 70 barrels.

Q. From 1839 to 1847, what were you engaged in?—A. I was working ashore on the wharf, culling mackerel, &c.

Q. Did you go to sea in 1847?—A. No; I went in the bay during the mackerel season. During the first part of the season I went to George's Bank.

Q. When did you go to the bay?—A. About the 1st of August.

Q. In what vessel?—A. The Clara S. Storey.

Q. What did you catch?—A. 250 barrels the first year. I only made one trip then.

Q. You were master at the time?—A. Yes.

Q. Were there then more vessels in the bay than when you first went there?—A. Yes; some more, but still there was not a dreadful number.

Q. In 1848 you were in the same vessel?—A. Yes.

Q. How many trips did you make?—A. Two.

Q. How much did you get on the first?—A. 250 barrels.

Q. And on the second?—A. About 260 barrels.

Q. Did you go home with your first trip?—A. Yes.

Q. In what vessel were you in 1850?—A. The Alexandria. We made two trips.

Q. What did you catch?—A. 300 barrels on the first and 250 on the second.

Q. Did you catch any fish within three miles of the shore in all this fishing?—A. No. We caught the first trip in the Alexandria up the gulf abreast of Seven Islands, about one-third of the way across to Cape Chafte. We got none inshore. We never saw any fishing inshore the whole time that we were there.

Q. And no vessels were catching any fish inshore?—A. Only three vessels were there at the time, and none of them caught any fish inshore while we were there.

Q. In what vessel were you in in 1851?—A. The Bloomer.

Q. How many trips did you make?—A. Two.

Q. What did you catch?—A. 300 barrels on the first and 250 barrels on the second.

Q. Where did you take them ?—A. The first trip we caught about half way between North Cape and Pigeon Hill.

Q. Was Pigeon Hill in sight ?—A. Sometimes we could see the land.

Q. Did you catch any fish anywhere else ?—A. We caught all of our first trip there and about that vicinity.

Q. Where did you get the second trip ?—A. We took about 230 barrels up the island broad off Malpeque, on what is called the Flat Ground, 7 or 8 miles off Malpeque. We used to run off east north-east, and we were sometimes 10 miles off, perhaps.

Q. There is something like a bank in this part ?—A. Yes; we used to call it the Flat Ground.

Q. Did you get any fish anywhere else ?—A. Yes, about 20 barrels off Margaree, in the fall, when going home; we finished our trip there.

Q. In what vessel were you in 1852 ?—A. I was in the same vessel up to 1861, which was my last year in her.

Q. You were eleven seasons in her ?—A. I was in her in 1851, and from that time up to 1861.

Q. Where did you catch your fish during this period ?—A. Our fishing-ground was mostly at the Magdalen Islands and chiefly to the northward, and we used to catch a great many fish about Bonaventure and Bank Bradley, but very few anywhere else.

Q. During nine of these years the Reciprocity Treaty was in force, and you then had a right to fish anywhere ?—A. Yes.

Q. Did you then catch any fish within the three-mile limit ?—A. We did not make a practice of fishing inshore. One thing is, our vessel (the Bloomer) was a kind of long-legged sort of a vessel, drawing 10 feet of water when in ballast; and when she had about 150 barrels of fish on board she drew 12 feet, and so we did not fish inshore very much, though we went in after supplies once or twice.

Q. In about Prince Edward Island ?—A. Yes.

Q. Where ?—A. Once at Cascumpeque. We got some supplies there from a man named Rider.

Q. In what other place were you ?—A. We were in Malpeque twice for supplies.

Q. What sort of harbors are these in time of danger ?—A. In those times—I do not know anything about them of late years—it was difficult to get in them when the water was rough. In smooth water a vessel could get in, but, nevertheless, I have seen vessels strike frequently while entering. The last time I was at Malpeque I saw a vessel go ashore, and finally we struck ourselves while going in, and drawing 12 feet of water.

Q. It is not extraordinary for a vessel to draw 12 feet now when half loaded and of the size yours was ?—A. No.

Q. After 1861 you left the Bloomer ?—A. Yes.

Q. In what vessel did you next go ?—A. The Prince of Wales.

Q. This was in 1863 ?—A. Yes.

Q. What did you catch ?—A. 942 sea-barrels.

Q. What was her tonnage ?—A. 188.

Q. Where did you catch your fish ?—A. We got them all at the Magdalen Islands save 40 barrels, which we obtained at Flint Island, down the Cape Breton shore, and close to Sydney.

Q. Were you then within three miles of the main shore ?—A. Well, we were between the two, and I not know but that we were within three miles of it part of the time. I do not know exactly how far we were off shore.

Q. You were either inside or outside of the three-mile line?—A. Well, I think we were within the three-mile line part of the time.

Q. And you caught 40 barrels?—Yes; in one day.

Q. Were all the rest taken outside of the three-mile limit?—A. Yes.

Q. And then you gave up fishing?—A. Yes; that was my last trip.

By Hon. Mr. Kellogg:

Q. How many trips did you make that year?—A. One; and we obtained 942 sea barrels, packing out, I think, somewhere about 804 or 805 barrels, or something like that.

By Mr. Dana:

Q. You told us you caught all the rest outside the three-mile limit?—

A. Yes; at the Magdalen Islands.

Q. Have you been halibut-fishing?—A. Yes; I followed it a great while, for twenty years.

Q. Since you left going mackerel-fishing in 1863?—A. No.

Q. When did you so fish?—A. During all the years I was in the Bloomer. I did so on the coast until we went to the bay. We fished previously in the Bay of Fundy or on the Georges.

Q. George's Bank is a great halibut ground?—A. It was then. We used to get a good many halibut there.

Q. The halibut is a deep-sea fish?—A. Yes, generally speaking. Sometimes they are caught in shoal water.

Q. During nine years you had a right to and to fish where you pleased in the bay, but for some years previously did the fact of cutters being in the gulf make any difference as to your going inside?—A. No; because we did not trouble ourselves anything about it. In 1851, when I went to the bay on my first trip, the day we got there a cutter seized the schooner Tiber.

Q. But you did not fish inside the three-mile limit?—A. No.

Q. Can you not find out from reports of vessels and from your own observation where the fish are?—A. Yes.

Q. You keep your ears and eyes open all the time you are fishing?—A. Yes.

Q. It is not necessary actually to go in and try, if you find vessels leaving a place without catching anything, to discover that this is the case?—A. No.

Q. And you have to judge as to the presence of fish a good deal from the reports of others?—A. Yes. A great many men have a choice as to fishing-grounds; this is the case everywhere, whether in cod, halibut or mackerel fishing. Some fish one way and some another.

Q. Did you mostly fish for mackerel with hand-lines?—A. Yes.

Q. Which do you think is the safest fishing-grounds for vessels, as regards wreck and loss, in the whole bay?—A. Well, as to an inshore fishing-ground, I suppose that the Magdalen Islands are the safest place. I always thought that they were as safe as any other place, with good tackel. I always supposed that Orphan and Bradley Banks were the safest places, because they are off shore.

Q. You have no lee-shore to be afraid of there?—A. No.

Q. And you are not obliged to use ground tackle?—A. Yes.

Q. But at the Magdalen Islands you can anchor?—A. Yes.

Q. And you can find a lee there?—A. Yes; mostly any time. I never saw the time yet when I could not find a lee when fishing there.

Q. What do you say as to the bend of the island regarding the safety of vessels?—A. Well, I call the bend of the island a very poor place for a fishing-vessel, as regards safety, especially in the fall.

Q. How is it in September?—A. During the summer season vessels may fish there, because the weather is a great deal milder in July and August; but about the first of September it begins to get more blowy and windy.

Q. And even in July and August, you would be careful how near you were inshore?—A. Yes. The bend of the island is a very bad place to fish in; it is so regarded, especially when the wind is blowing on shore, because then the tide generally sets in, and makes it very rough there.

Q. The tide is subject to that there?—A. Yes.

Q. And that makes it very rough there?—A. Yes. It does that all over the bay.

Q. Do you know anything about the the bar of Malpeque Harbor? Is it stationery or shifting?—A. I do not know save very little about it; I was only there two or three times. I was there twice one year, and then the bar remained about the same; but since I have heard that it has shifted some. I do not know this personally, however.

Q. Do you know how it is about Cascumpeque?—A. I never was there but once, and I could not tell you.

Q. That was a good while ago?—A. Yes.

Q. From your experience in the bay—a pretty long one—do you attach much importance to the right of fishing within three miles of the shore?—A. Well, no; I do not think it is of any importance. It never was so to me.

By Mr. Weatherbe:

Q. What age were you when you left Ketch Harbor?—A. I was then three years old.

Q. You have never lived there since?—A. No; I have since always lived in Gloucester.

Q. You are married and settled there?—A. Yes.

Q. And naturalized?—A. Yes.

Q. During all these years when you fished in the Gulf of St. Lawrence, had you a large number of Nova Scotians on board?—A. Sometimes we had some.

Q. We have a long list of such names?—A. Well, that is the case in many instances; but in our case, when I was in the Bloomer, for four or five years we had a crew from home—Gloucester; but we have sometimes had Nova Scotians on board.

Q. You had some of them in the Bloomer?—A. Yes.

Q. Will you give their names?—A. I do not know as I could recollect them all. We had one man named Bryant Rogers of the Gut of Canso, and another called Red Dan, a Scotchman, of the same place. I do not know his real name. Then we had a third, named Hughey McDonald.

Q. In what vessel were they?—A. The Bloomer.

Q. What year was this?—A. I do not know that I could give the year exactly, but I think it was in 1854.

Q. Do you recollect any other names from Prospect or Ketch Harbor?—A. I only had one man from one of these places and his name was John Clancy.

Q. Where is he now?—A. I could not say.

Q. Did he reside in the United States?—A. No; he went fishing from there for two or three years. He went with me on one trip in the fall, and he then went home.

Q. Was he a young man?—A. I think he would be now about 35 years old, or perhaps a little more.

Q. He was in the Bloomer?—A. Yes.

Q. When?—A. I think about 1855, but I will not say for a certainty.

Q. Can you give us any other name?—A. I do not recollect any other.

Q. Whether of men from Halifax County, or any other fishing settlement on this coast, or of Prince Edward Island?—A. No.

Q. The fishing town of Gloucester is made up mostly of Nova Scotians?—A. A good many of these people are there, and some vessels carry more of them in their crews than other vessels do. Some carry hardly any of them.

Q. The town is made up of Nova Scotians?—A. A great many of them are there.

Q. A great part of its population is Nova Scotians?—A. A good many Nova Scotians live there.

Q. Is the majority of the population Nova Scotians?—A. No.

Q. But is this not the case with the fishermen?—A. I refer to fishermen.

Q. Are they not Nova Scotians, or the children of Nova Scotians, or of British subjects?—A. Well, I could not tell the exact number of them.

Q. The majority of them were formerly British subjects, or descendants of persons who were formerly British subjects?—A. I should not think that this is the case with the majority; not more than one-third of them are British subjects.

Q. Were not the majority of the crews that went on Gloucester vessels to the bay, British subjects, or were they not originally so?—A. A good many were, but I do not know how many—perhaps one-third. I do not know that the proportion is greater than that.

Q. In Gloucester vessels that come into the bay?—A. Yes.

Q. It strikes me that the majority of Gloucester fishermen are of British extraction?—A. This may be the case; but I cannot speak for a certainty.

Q. You do not know whether this is the case or not?—A. I could not say. It is some time since I was fishing.

Q. In your experience they were not British subjects?—A. I do not think so.

Q. You told me that very few British subjects were in your vessels?—A. Yes.

Q. Very few, indeed?—A. Yes.

Q. In all the vessels you were in?—A. I was in one vessel most of the time.

Q. Were there any in the Mount Vernon and Clara S. Storey?—A. No.

Q. Or in the Prince of Wales?—A. I think we had 4 in her.

Q. Can you give me any names?—A. One of them was named Charles Martin; another Barney Pine, and a third, Warren Guthrie. I do not know that there were more.

Q. Where do they reside?—A. Charles Martin lived at Ketch Harbor; he was born there, but now he is a citizen of Gloucester, and master of a vessel.

Q. Was he a citizen of Gloucester when he was fishing with you?—A. Yes.

Q. Where did the others live?—A. They were citizens of Gloucester, and they lived there at the time.

Q. These others were not in the Bloomer?—A. No.

Q. You cannot recollect any other names?—A. No.

Q. Can you name any British subjects resident here who were with

you in the years 1854, '7, '8, '9, 1860 and 1861?—A. No; save one, John Clancy.

Q. What year was he with you?—A. I think it was along about 1855.

Q. Can you give us the names of any such persons who were with you later?—A. We did not have any Nova Scotians with us in 1859, 1860, and 1861.

Q. Or persons from any of the Provinces?—A. Not that I recollect.

Q. Where did you catch your fish in 1853?—A. Between North Cape and Kildare, and towards Orphan Bank, and in that direction.

Q. Where did you get them in 1854?—A. Along about the same places. Sometimes we caught some at the Magdalen Islands; that was generally our fishing ground.

Q. Where were you in 1853?—A. In 1851 we made two trips, and in 1852, '3, '4, '5, and '6, only one trip each year.

Q. This was because you were fishing for halibut?—A. Yes—during the first part of the season.

Q. How many did you catch in 1852?—A. 230 barrels.

Q. And in 1853 and '54?—A. Well, I could not tell you the exact number of barrels, because we generally came in about the same time in the year, but I guess that we caught somewhere about 240 barrels on each trip. I took it from the books at home.

Q. What did you catch in 1848?—A. 250 barrels on the first trip.

Q. How many trips did you make that year?—A. Two; we got 260 on the second.

Q. In 1850, how many did you take on the first trip?—A. 300; I was then in the Alexandria, and we fished up the gulf.

Q. And how many the second trip?—A. 250.

Q. How many did you get during your one trip in 1853?—A. 240 barrels, I think.

Q. And in 1854?—A. It was somewhere in the neighborhood of 230 or 240; that was about the average: I could not give the exact figures.

Q. Was your catch 250, or 260, or 270 in 1850?—A. Well, I think it was 250 barrels.

Q. Or was it 270?—A. It was not so many as that.

Q. Are you sure?—A. I am sure that it was not 270.

Q. And in 1854 you say your catch was 240 or 250?—A. I do not know exactly what it was.

Q. How is it you are so exact about previous years, now 30 years ago?—A. I had it all made up, but I left it down at my house; I made up the average, and I think that it was about 240.

Q. And you made a memorandum of all your catches?—A. Yes.

Q. You would then remember these catches as well as the others?—A. Yes.

Q. How many did you catch in 1855?—A. 245 barrels.

Q. And in 1856?—A. I could not give the exact number, though I could tell it if I had my papers.

Q. Can you give me a number anywhere near it?—A. Yes; 240 barrels.

Q. What was it in 1857, '8, and '9?—A. About 240 or 250 barrels.

Q. What was your catch in 1858?—A. About 245 barrels.

Q. And in 1859?—A. Somewhere about 240 barrels.

Q. Are you simply guessing the numbers?—A. No.

Q. You told me you could recollect your catches for these as well as for the other years?—A. In 1860 and 1861 we caught somewhere about 245 barrels; that is as near as I can come to it.

Q. This was the case during both years—1860 and 1861?—A. Yes.

Q. Your catches were pretty much all the same?—A. Yes; that was about an average all along, during several years.

Q. You remember where, out of 250 barrels taken in 1851, you caught 20?—A. Yes.

Q. And you told us where you caught the balance, and out of 940 barrels you mentioned where you caught 40; now out of 245, where did you catch 45 barrels, for instance? You told us where you caught 20 out of 250?—A. Yes; this was at Margaree Island.

Q. And you remember that since 1851?—A. Yes; that was the only time when I did catch any fish there.

Q. And out of 245 taken in 1855, where did you catch part?—A. We caught all our mackerel that year at the Magdalen Islands.

Q. How many did you catch from 1851 to 1861 within the three-mile limit?—A. I shall not suppose that in all these years we took as many as 100 barrels of mackerel within three miles of the shore.

Q. You did not catch 100 barrels inshore?—A. No.

Q. Out of all your catches?—A. Yes.

Q. Are you sure about that?—A. Yes.

Q. When did you catch them?—A. In 1863, we caught 40 barrels inshore at Flint Island, in the Prince of Wales.

Q. I mentioned the period between 1851 and 1861?—A. During these ten years we took 20 barrels at Margaree Island and also a few once—I could not say positively when—off East Point. I could not swear that this was within the three mile limit or not, but it might have been.

Q. And out of all your catches you only took 100 barrels inshore?—A. I say I could not swear as to this. I have nothing to go by.

Q. Then you do not know what you caught within the three-mile limit except these 20 barrels?—A. What makes me so distinct about the 20 barrels is because I took them at Margaree Island.

Q. You do not know whether you caught any more within the three-mile limit?—A. No. I could not positively take oath to it. There are only 20 barrels that I can swear to.

Q. And you cannot say that you took any more within the three-mile limit?—A. No.

Q. That is, you cannot tell where you caught them?—A. Yes.

Q. You cannot tell how far off the shore you took your fish?—A. I can with respect to the Banks and the Magdalen Islands.

Q. Can you tell whether you caught 100 barrels within the 3-mile limit?—A. That was all the mackerel I caught inshore. Some of the others might have been taken inshore, but I could not swear to it; I could not tell exactly by the eye whether I was 3 or 2 or $2\frac{1}{2}$ miles off shore—the real distance might have been within a quarter of a mile of these distances.

Q. You cannot tell because it is difficult to say what distance you are from the shore?—A. Yes.

Q. And sometimes you fish in a fog?—A. I mean to say that I never fished inshore long enough to know. I have not often fished when there was a fog in the bay, but I have sometimes seen smoke there.

Q. It is difficult to tell whether you are 3 miles from land or not?—A. By looking at the land—yes.

Q. Then you cannot tell when you are fishing within the 3-mile limit?—A. I am sure that we did not catch any mackerel within this limit except the 20 barrels taken at Margaree Island.

Q. You tell me it is difficult to say whether you are fishing within 2 or $2\frac{1}{2}$ or 3 miles of land?—A. You cannot tell the exact distance within

a quarter of a mile with your eye. If we are 5 miles off we would be pretty certain of being 3 miles off shore.

Q. Then you cannot tell save within two miles of the exact distance ?—A. Yes.

Q. It is difficult to tell within two miles whether you are three miles from the shore or not ?—A. Well, yes. What makes me give this answer is, I was never accustomed to fish inshore at all.

Q. Did you never fish within five miles of land ?—A. I could not say for a certainty. I may have caught some fish within five miles of the shore.

Q. Have you caught fish six or seven miles off ?—A. Yes.

Q. You have caught them within six miles of the coast ?—A. Yes, some.

Q. How many ?—A. I took nearly one whole trip in the bend of the island, at the place we call the Flat Ground, seven or eight miles off land.

Q. When was this ?—A. In 1851.

Q. You then took nearly your whole trip within six or seven miles of land ?—A. Yes, six or seven.

Q. Was it six or seven ?—A. I could not say.

Q. Will you swear that you did not catch one-half of that trip within five miles of land ?—A. Yes.

Q. Then you are able to tell when you are five or six miles off the coast so as to swear to it ?—A. I cannot state anything definite on this subject.

Q. Are you able to swear that you caught one-half of this trip within five miles of the shore ?—A. No.

Q. You are not able to swear that ?—A. No; we called the distance at which we took them six or seven miles off shore.

Q. You are not able to swear to five miles or not ?—A. I am able to swear that we did not then catch any fish within five miles of the coast.

Q. You caught them all within six miles of it ?—A. We might have been some days 6 or 7 or 8 miles off.

Q. You told me you were able to swear that you caught the whole trip within six miles of the shore ?—A. I said six or seven miles.

Q. Could you say you caught the whole trip within seven miles of the coast ?—A. Yes.

Q. You are sure of that ?—A. It was somewhere about that distance; that is as near as I can state.

Q. Then you are perfectly certain that you caught them all within seven miles of the coast ?—A. Yes; it was about seven miles from the land.

Q. And you said that you did not catch any within five miles of it ?—A. Yes.

Q. Then you are able to tell within two miles where you caught them ?—A. I could say as to seven miles from the land. Some fish might have been taken farther off; but I cannot say for a certainty.

Q. When I asked you if you had caught some within five miles of land, you positively said you did not.—A. And I am positive about it now.

Q. Did you not a moment ago say that you could not tell whether you were five or three miles from the shore ?—A. You can tell that you are five miles off better than three.

Q. Did you say so or not ?—A. I said that all I had to go by was my eye.

Q. Did you say so or not?—A. I say that we never fished within five miles of the shore when we caught mackerel.

Q. Did you state that it was sometimes difficult to tell whether you were five or three miles from the coast?—A. It was so for five or seven miles, I said.

Q. Where did you catch the largest portion of your fish during these ten years, from 1851 to 1861?—A. We caught most of them at the Magdalen Islands and on Banks Orphan and Bradley.

Q. Did you catch the most at the Magdalen Islands or at the Banks?—A. We got the most at the Magdalen Islands.

Q. What proportion of your fish were taken there?—A. Two-thirds, I should say.

Q. You did not try to fish within three miles of the coast?—A. No.

Q. You never did?—A. No.

Q. Therefore you are not able to say what kind of fishing is to be found there?—A. No.

Q. You gave as a reason why, during a great number of years—10 at least—you did not catch fish inshore, was because your vessel was long-legged?—A. Yes.

Q. That was the reason?—A. Yes.

Q. Are you aware that on some parts of the coast you can go with a vessel of that size as near the shore as you like?—A. I could not say that this is the case. I never did so. I never tried to.

Q. You were not aware of such places?—A. No.

Q. And, therefore, you never tried to fish in there?—A. No.

Q. Are you able to say how many vessels Cascumpeque Harbor will shelter?—A. No. I went in there merely for wood and water; and we also bought a few provisions there. Only three vessels were in it at the time.

Q. You are not sufficiently acquainted with Malpeque Harbor to give it any character one way or the other?—A. No.

Q. You do not know how many fathoms of water are to be found at its entrance?—A. Well, when we were there I recollect that we sounded and we found about 12½ feet.

Q. Are you able to say that this was at the deepest place?—A. No; we went, however, as near mid-channel as we could, where the buoy was.

Q. It was only during your last fishing year that you fished close in-shore near Sydney?—A. Yes; I was not master of the vessel at the time. John McQuinn was master.

Q. You had been master on previous trips?—A. Yes.

Q. For how long?—A. I was in the Bloomer the whole time that I was master.

Q. Were you master during all those years?—A. Yes.

Q. And as soon as you went with McQuinn you went near Sydney to fish?—A. Yes.

Q. How long were you catching the 40 barrels?—A. They were taken during one day.

Q. And if you had been master, you would not have gone there at all?—A. I might have gone there; we were bound home at the time.

Q. He was acquainted with the place?—A. Yes.

Q. And he had always fished there?—A. I do not know that. We were going southward, when some vessels raised mackerel and we caught there 40 wash-barrels in one day.

Q. Between daylight and dark?—A. We got them all between 8 a. m. and 2 o'clock in the afternoon.

Q. I suppose that if you went that way again you would try there?—
A. It would depend on how I felt; if I was not in too much of a hurry to get home I might.

Q. If you had a license, you would do so?—A. It would depend on circumstances.

Q. What objection would you have to try there?—A. If I had a fare, as we had, I might go home, if there was a fair wind; and if I happened to be there, and could pick up four or five barrels, I might stop to catch them.

Q. Where did you catch the balance of the trip?—A. Between East Point, Magdalen Islands, and Bird Rocks.

Q. How near East Point were you?—A. I should say that we were four, five, six, or seven miles off. We used to heave to four or five miles off East Point, and drift down toward Bird Rocks.

Q. You would go in to within four or five miles of the coast?—A. We might do so, but that would not be very often. Some days we would heave to within four miles of the shore.

Q. Did you always endeavor to stop four miles off?—A. Well, I do not know as I could tell exactly when we were four miles off.

Q. You would endeavor to fix the distance at about four miles, and you studiously avoided coming in closer when you ran in to commence fishing?—A. Well, I do not know that. We might go farther in shore, but I have never known that we did go any farther in.

Q. Did you avoid going any farther in?—A. I do not know that we paid any particular attention to that matter.

Q. You would not mind whether you were four miles off or closer in? Had you any objection to being closer in?—A. I had not. I was not master of the vessel.

Q. Did you never fish that way in the same place when you were master?—A. It was a very rare thing that we ever fished so near as within four or five miles of the Magdalen Islands. I never stopped at one place for a whole voyage save at these islands.

Q. You never fished so close the shore as that?—A. Sometimes we did. We fished within five miles of Bird Rocks.

Q. And within four miles of them?—A. Well, yes.

Q. But you did not generally run in so close?—A. We might have done so. I could not tell exactly how far off we fished. We used to catch our fish on different days in different places.

Q. You were asked whether you would not have your ears open and your understanding to know where other people caught their fish, and your answer was that some people had their choice?—A. Yes, sir.

Q. That is to say that some people have their choice to fish in certain places and others in different places?—A. Yes.

Q. And that is the only answer you gave. I suppose you did hear where others were fishing. Have you given a full answer?—A. I have given a full answer.

Q. You must have heard where others have fished?—A. Of course if a man gets a full trip on Orphan Bank he will go there again.

Q. He does not care where others have fished?—A. No.

Q. Then it is possible that some fish altogether in one place, and some altogether in another place?—A. Well, I don't know anything about that; I only know my own experience.

Q. Then you can give no idea where fish are caught except your own actual experience?—A. Well, I know where people have said.

Q. That is just what Mr. Dana asked you. I want to take the same ground that he did, that your ears were open and you understood. Your

answer was simply that some had their choice ?—A. If I spoke a vessel and he said there was a good prospect at Bradley, I should go there. If he said there was good fishing on the Magdalens, I should go there.

Q. I thought your answer was that some would have their choice; that no matter what they heard, they would still go to the same places ?—A. I would go where I got good catches the year before.

Q. Then you didn't hear of others fishing in other places ?—A. I have heard of them fishing at Bradley, and Magdalens, and up the gulf.

Q. Those are the places you went yourself ?—A. I know. I have heard of them catching off the island and Margaree.

Q. And Cape Canso ?—A. No; not Cape Canso.

Q. Bay Chaleurs ?—A. I never was up there.

Q. I was not asking you that, but whether you heard of vessels being there ?—A. Yes; I have heard of vessels being there.

Q. And at Gaspé ?—A. Yes.

Q. Up above Gaspé ?—A. Well, I have heard of vessels catching mackerel there.

Q. Both sides of the St. Lawrence, close inshore ?—A. Not close in. I never was there.

Q. Well, never mind whether close in or not—in the mouth of the St. Lawrence ?—A. I don't know that I ever heard of any. I don't recollect any time.

Q. You have heard of fishing on the shores of the island, Margaree, Bay Chaleurs, and Gaspé ?—A. Yes; I have heard.

Q. Did you hear of them being caught on both sides of the river, at the mouth ?—A. No.

Q. At Seven Islands ?—A. Not to catch a trip there.

Q. Above Seven Islands ?—A. I never heard of it. We spoke a vessel that had been there, but had caught nothing. I have heard of vessels trying there. I don't know whether they caught anything or not.

Q. Now, Mr. Dana put it to you whether the bend of the island was a very dangerous place; I think you gave him an answer with regard to some month ?—A. I said it was worse in the month of September or October than in the summer.

Q. Was your answer confined to that month? What about July and August ?—A. Well, if a vessel saw fish there I suppose they would fish. It is very seldom that we have a gale in July or August, although we do have them.

Q. It was not on account of the danger that you kept away ?—A. No.

Q. The danger had nothing to do with your fishing ?—A. No.

Q. You never kept any account so far back as 1838 or 1839 of what proportion of fish were caught within in any year ?—A. I recollect particularly about 1838. There was a few mackerel caught in Pleasant Bay. We did not know anything about inshore fishing at that time. It was not understood at that time.

Q. Now, I don't want to trouble you with reading any opinions, but about what time was it ascertained that the mackerel-fishing was inshore ?—A. I could not tell.

Q. At the time you mentioned it was not known that it was an inshore fishery at all ?—A. No; not to my knowledge.

Q. It was after it was ascertained that it was an inshore fishery that you heard of a difficulty about the limit ?—A. Yes.

By Mr. Dana :

Q. I wish to ask you with reference to the last question when you ascertained that the mackerel fishery was an inshore fishery ?—A. I stated it was not in the year 1838.

Q. Mr. Weatherbe asked you when you first ascertained that the mackerel fishery was an inshore fishery, and whether this or that happened before you ascertained that it was an inshore fishery. Now have you ever learned that it was an inshore fishery in distinction from an outshore fishery?—A. No.

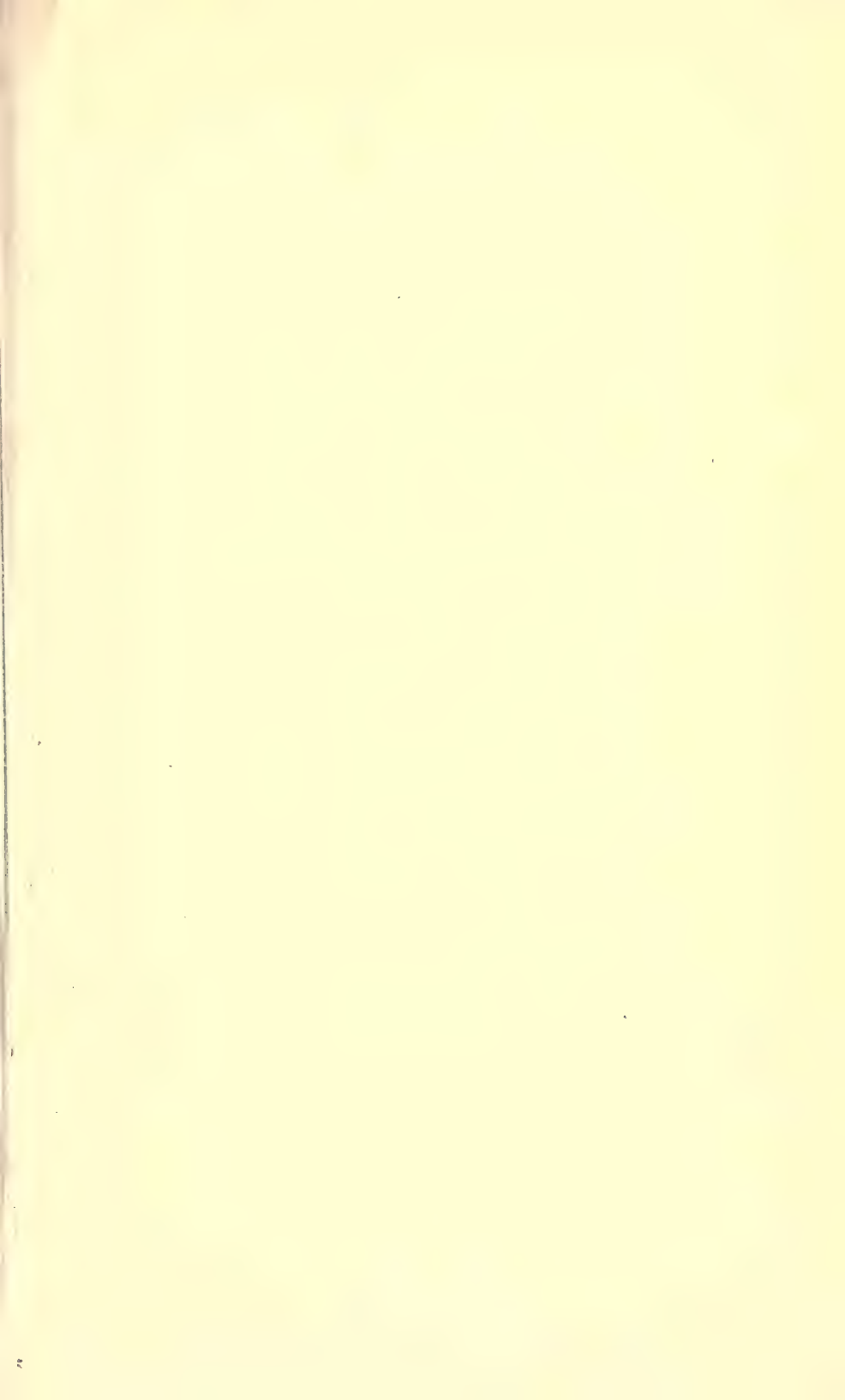
Q. Well, what do you mean when you speak of “after you understood it was an inshore fishery”? Do you mean mainly or largely inshore?—A. No; we would hardly ever catch any inshore in the first part of the season. Some parts of the year they did catch them inshore and off shore too.

Q. Taking them all through, where do you catch them?—A. Most of them are caught off shore.

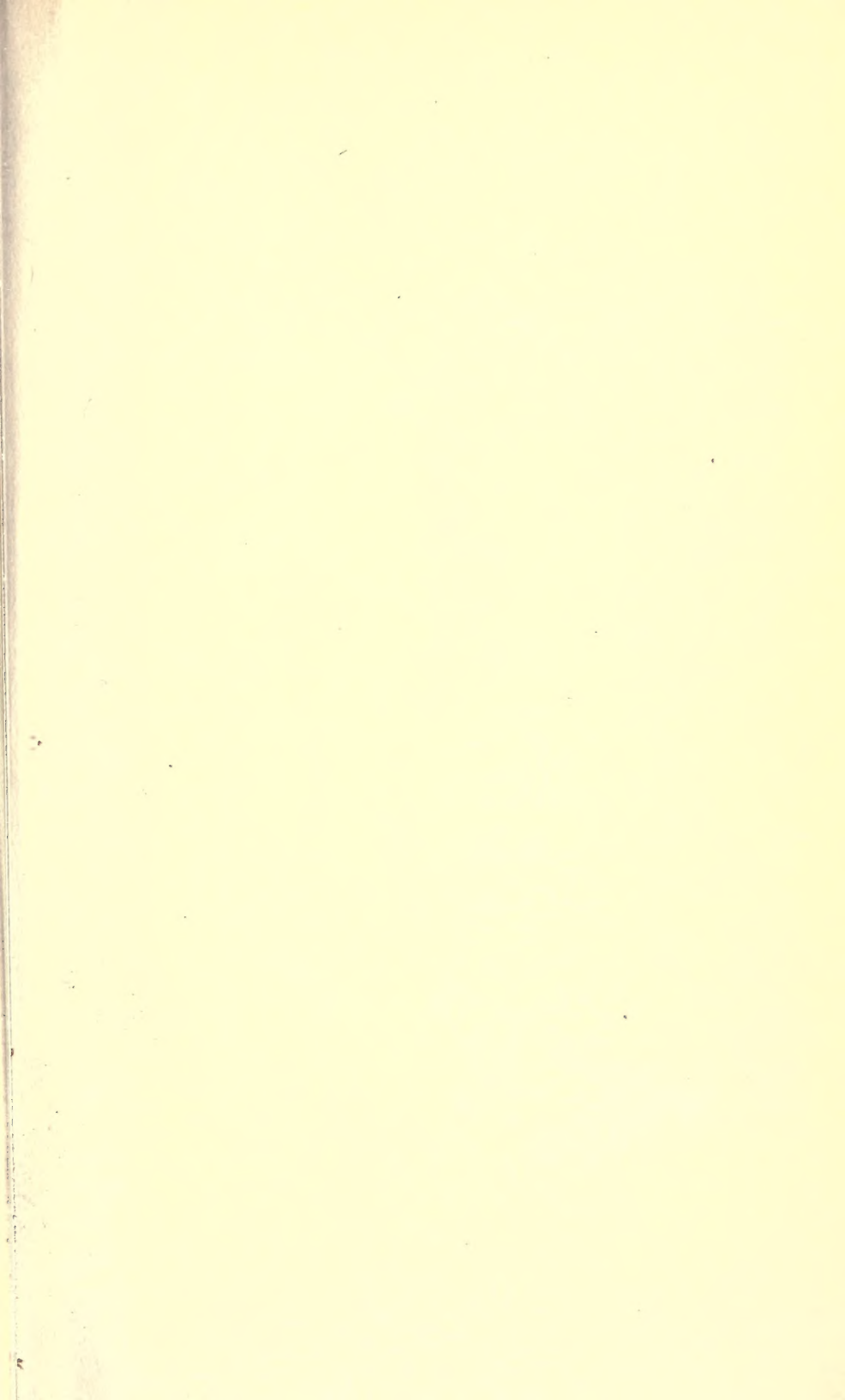
By Mr. Weatherbe :

Q. I asked when it was that the difficulty first arose about the limit, and whether it was after it was considered an inshore fishery, that is 1839?—A. I referred to the year 1838. It was an inshore fishery when they fished there. When vessels didn't fish there you could not call it an inshore fishery.









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